INTERNATIONAL LAW AND PRACTICE

WITH APPENDICES

OMAS BARCLAY

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TO BE
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AUTHORITY

International Law and Practice

International Law and Practice

with Appendices

containing

Hague Conventions of 1907
Declaration of London, 1909
(with Drafting Committee's Report)

and

Materials concerning Branches thereof susceptible of Adjustment on the Termination of the War

(Supplemental to "Problems of International Practice and Diplomacy")

BY

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PREFACE

In the Introduction to *Problems of International Practice and Diplomacy*, I gave the following account of its genesis and form:—

> "The form of this volume requires explanation. It has already been privately issued, partly in fragments and partly as a confidential memorandum, for the consideration of my colleagues of the Institute of International Law, different government departments at home and abroad, and others. The wide margins and blanks were left for the insertion of new matter and the convenience of the specialist readers whose views on different points I had solicited. As they may also prove serviceable to the readers of a book of this kind generally, and changing the form would have entailed delay and labour out of proportion to the resulting advantage, I hope I may be pardoned for in this respect not adhering strictly to time-honoured traditions of book-production."

The present volume owes its origin to a somewhat similar purpose. I intended issuing the translations of The Hague Conventions of 1907 as a supplement to the above-mentioned volume; in fact they have been standing in type for seven years. Meanwhile, Mr. Higgins and Mr. James Brown Scott published excellent treatises on the work of the Second Conference, which seemed to render their independent publication mere supererogation. I therefore deferred publication till the holding of a Third Conference came within sight.

That time had come. Several Governments had already appointed their national committees, and the International Preparatory Committee recommended by the Second Conference would no doubt in due course have followed.

War shattered all hope of the work of The Hague Conferences being continued for some time to come, but it has lasted long enough to prepare the reaction of horror at its cruelty and of doubt as to the genuineness of its purpose. The reaction will

necessarily involve a demand for law and order in the place of the chaos, disorder and destruction war has entailed.

The urgency of speedily holding the Third Hague Conference will probably be forced on Governments as soon as peace negotiations have begun and it is found that precise and stringent rules for the avoidance of international conflicts are as much a necessity of peace as destruction is a necessity of war.

I have retained the same large form with ample margins for notes, hoping that the present volume will be as useful and handy for reference as its predecessor.

The object of the present volume is to complete down to date the matters dealt with in the writer's *Problems of International Practice and Diplomacy*, which was published on the eve of the opening of the Second Hague Conference in June 1907. In that volume the possible subjects for deliberation at the Conference were examined, and forms of agreement based on the existing law and practice were suggested, showing the possibility of achieving agreement on practically all controversial points within the scope of the work for which the Conference was called. There had been pessimistic anticipations, both official and unofficial, among leading Powers. Some diplomatic authorities anticipated even a general breakdown, on the ground that antagonistic interests were involved, and that the main object of the Conference, namely, the restriction of armaments or of military and naval expenditure, would be frustrated by the determined opposition of a Great Power whose concurrence in any scheme for such a purpose was indispensable. In *Problems of International Practice and Diplomacy* the writer treated the whole question of disarmament as outside the scope of a general Conference. He endeavoured to show how, without including that subject at all, the Conference would be in a position to codify the branches of international law upon which the Powers were already mainly agreed in principle, to solve by argument or compromise difficulties of practice, and to lay the foundations of a *corpus juris gentium*, which would be of the greatest value in the determination of international difficulties by arbitration, and tend, through its influence on public opinion, to hinder

recourse to solutions by brute force. International law might thus cease to be more or less a matter of conjecture, or, as it appears to many public men still, a sealed book of controversial intricacies which only a specialist can unravel.

The Hague Conference of 1907 did not belie these optimistic anticipations.

Meanwhile, the Institute of International Law went actively to work, on the subjects bequeathed by the Second to the Third Conference, and among the contents of the present volume will be found the original text, with a translation into English, of the Rules and Regulations adopted by that body adapting to naval war those which were adopted by the First and Second Conferences relating to war on land. In appropriate places will be found other matter with which the Institute has dealt at different periods of its now time-honoured existence. As the Institute is a closed body consisting of sixty members and sixty associates, and admission to it is granted only to experts in the practice or theory of international law, credit is due and given to its views and propositions for reform.

Among the suggested drafts are also several of my own, which, as convener, I had drawn up for the consideration of committees of the Institute appointed to deal with them.

I trust that the book will prove useful not only in the preparation of the work of the of course still problematic Third Conference, but also as a compendium of international law already codified, and of the views of those best qualified to express them respecting its still uncodified materials.

As the revised Conventions of 1907 have not all been ratified, and several of the Powers have ratified none of them, I have given the original texts along with the revised texts in a way which at once shows the differences between the new wording and the old; the latter is still binding on States which have not yet ratified the later Conventions.

Another innovation which I trust will prove serviceable is the printing, alongside the Articles of the Declaration of London, of the comments of the Drafting Committee's Report, which is regarded as the most authoritative statement of their meaning.

The Declaration itself will certainly require revision, but, subject to revision, it may still be regarded as expressing the desire of maritime Powers to substitute order for disorder in the law applicable to naval war.

There are some pessimists who have lost all faith in the future of law and order among mankind, but, as I have said elsewhere, to sneer at The Hague Court, at arbitration, at peace methods, at international law generally because the most terrible war the world has ever seen has broken out in spite of them, is just about as reasonable as to sneer at engineering, architecture and the science of building generally, because an earthquake or an inundation has destroyed some of man's finest work. The short sight of practical mediocrities, however, will always appeal to other short-sighted mediocrities just as sheep will follow their own bell-wether, and their sneers are of no ultimate effect.

Wars are explosions of national anger, and, while the excitement lasts, nations are just about as sensible as individuals in the midst of a violent quarrel. That the excitement will exhaust itself and men will return to a normal state of mind and see things in their proper proportions is as certain as the play of action and reaction in the course of things mundane in general.

After the war is at an end, international law, arbitration as established by The Hague Conventions and by treaties and the working of The Hague Court, will probably resume their operative effect just as before the war, in spite of violations on all hands by belligerents of almost every rule which had been laid down by statesmen and jurists for the protection of neutrals and civilians, and for the humanising, so far as it can be made humane, of so insensate a survival of barbarism as war.

T. B.

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TABLE OF CONTENTS

	PAGE
I. First and Second Hague Conferences Compared	1
II. An International Prize Court	9
III. Declaration of London	13
IV. Work Achieved in 1907 and 1908–9:	21
(*a*) Law of Naval War	21
(*b*) Law of War on Land	21
(*c*) Restriction of *Casus Belli*	22
(*d*) Revision Work	22
(*e*) Declarations of War	23
(*f*) Neutral Rights and Duties in War on Land	23
(*g*) Neutral Rights and Duties in Naval War	24
(*h*) Belligerent Rights and Duties in Naval War	25
(*i*) Projectiles from Aircraft	29
V. Restriction of Armaments	31
VI. Bequests of Work by Second Hague Conference and Matters Ripe for Consideration Generally	35
VII. Codification of the Law of Maritime Warfare	39
VIII. Proposed Court of Arbitral Justice	41
IX. On a General Treaty of Arbitration	45
X. Permanent Organisation of The Hague Peace Conferences	51
XI. Regulations concerning Territorial Waters	55
XII. Effects of War on the Personal Rights of Private Citizens of Belligerent States	57
XIII. Aircraft in Time of War and Peace	59
XIV. Lighthouses in Time of War	63
XV. Consolidation of the Law affecting the Navigation of Rivers flowing through different Countries	65

PAGE

XVI. Occupation of Unoccupied Territory, Annexations, Protectorates, Spheres of Interest and Influence, Hinterland, International Leases, etc. . . 69

APPENDICES

1. Texts of Hague Conventions of 1907 . . . 79
Final Act of the Second International Peace Conference 79
Schedule to the First *Vœu* adopted by the Second Peace Conference. Proposed Convention relating to the Establishment of a Court of Arbitral Justice : . 94
(*a*) Organisation of the Court of Arbitral Justice (Articles I. to XVI.) 94
(*b*) Competence and Procedure (Articles XVII. to XXXIII.) 97
Final Provisions (Articles XXXIV. and XXXV.) 101

(1) For the Pacific Settlement of International Disputes : 102
(*a*) On the Maintenance of General Peace (Article I.) 102
(*b*) On Good Offices and Mediation (Articles II. to VIII.) 103
(*c*) On International Commissions of Inquiry (Articles IX. to XXXVI.) 104
(*d*) On International Arbitration . . . 109
Arbitral Justice (Articles XXXVII. to XL.) . 109
Permanent Court of Arbitration (Articles XLI. to L.) 110
Arbitral Procedure (Articles LI. to LXXXV.) . 114
Summary Arbitration Procedure (Articles LXXXVI. to XC.) 120
Final Provisions (Articles XCI. to end) . . 121

(2) Respecting the Limitation of the Employment of Force for the Recovery of Contractual Debts . 124

(3) Relative to the Commencement of Hostilities . 127

(4) Concerning the Laws and Customs of War on Land 130
Appendix to Convention : Regulations respecting the Laws and Customs of War on Land : . . 134
(*a*) Of Belligerents (Articles I. to XXI.) . . 134
Status of Belligerent (Articles I. to III.) . 134

PAGE

Prisoners of War (Articles IV. to XX.) . . 134
Sick and Wounded (Article XXI.) . . 137
(*b*) On Hostilities (Articles XXII. to XLI.) . 138
On Means of Injuring the Enemy, Sieges, and Bombardments (Articles XXII. to XXVIII.) 138
Spies (Articles XXIX. to XXXI.) . . 139
Flags of Truce (Articles XXXII. to XXXIV.) . 139
Capitulations (Article XXXV.) . . . 139
On Armistices (Articles XXXVI. to XLI.) . 140
(*c*) Military Authority over Enemy Territory (Articles XLII. to LVI.) . . . 140
(*d*) Internment of Belligerents and Care of the Wounded in Neutral Countries (Articles LVII. to end, transferred to other Conventions) . 142
(5) Convention respecting the Rights and Duties of Neutral Powers and Persons in War on Land : . 144
(*a*) Rights and Duties of Neutral Powers (Articles I. to X.) 144
(*b*) Belligerents Interned and Wounded on Neutral Territory (Articles XI. to XV.) . . 146
(*c*) Neutral Persons (Articles XVI. to XVIII.) . 147
(*d*) Railway Property (Article XIX.). . . 147
Final Provisions (Articles XX. to end) . . 148
(6) Relative to the Status of Enemy Merchant Ships at the Outbreak of Hostilities. . . . 150
(7) Relative to the Conversion of Merchant Ships into War Ships 153
(8) Relative to the Laying of Automatic Submarine Contact Mines 156
(9) Respecting Bombardment by Naval Forces in Time of War : 160
(*a*) Bombardment of Undefended Ports, Towns, Villages, Habitations or Buildings (Articles I. to IV.) 160
(*b*) General Dispositions (Articles V. to VII.) . 161
Final Provisions (Articles VIII. to end) . 162
(10) For the Adaptation of the Principles of the Geneva Convention to Maritime War . . . 164

PAGE

(11) Relative to certain Restrictions on the Exercise of the Right of Capture in Maritime War: . . 172
(*a*) Postal Correspondence (Articles I. and II.) . 172
(*b*) Exemption from Capture of certain Boats (Articles III. and IV.) 173
(*c*) Rules as to Crews of Enemy Merchant Ships Captured by a Belligerent (Articles V. to VIII.) 173
Final Provisions (Articles IX. to end) . . 174

(12) Convention Relative to the Establishment of an International Prize Court: 176
(*a*) General Provisions (Articles I. to IX.) . . 176
(*b*) Organisation of the International Prize Court (Articles X. to XXVII.) . . . 179
(*c*) Procedure before the International Prize Court (Articles XXVIII. to L.) . . . 182
Final Provisions (Articles LI. to LVII.) . . 186
Schedule to Article XV. Distribution of Judges and Assistant Judges according to Country for each Year of the Period of Six Years . . 190

(13) Convention respecting the Rights and Duties of Neutral Powers in Maritime War . . . 191

(14) Declaration Prohibiting Discharge of Projectiles, etc., from Balloons 199

2. Declaration of London Concerning the Laws of Naval War (1909): 201

(1) Blockade in Time of War (Articles I. to XXI.) . 202

(2) Contraband of War (Articles XXII. to XLIV.) . 208

(3) Unneutral Service (Articles XLV. to XLVII.) . 220

(4) Destruction of Neutral Prizes (Articles XLVIII. to LIV.) 222

(5) Transfer to a Neutral Flag (Articles LV. and LVI.) . 224

(6) Enemy Character (Articles LVII. to LX.) . . 226

(7) Convoy (Articles LXI. and LXII.) . . . 228

(8) Resistance to Search (Article LXIII.) . . 228

(9) Compensation (Article LXIV.) . . . 230

Final Provisions (Articles LXV. to end) . . 230

Final Protocol 236

PAGE

3. General Treaty of Arbitration between Italy and the Argentine Republic (*September* 18, 1907) . . 239

4. General Treaty of Arbitration between Italy and the United States of Mexico (*October* 16, 1907) . . 243

5. Revised Geneva Convention (*July* 6, 1906): . . 247

(1) Wounded and Sick (Articles I. to V.) . . 251

(2) Medical Units and Establishments (Articles VI. to VIII.) 252

(3) Personnel (Articles IX. to XIII.) . . . 252

(4) Material (Articles XIV. to XVI.) . . . 253

(5) Convoys of Evacuation (Article XVII.) . . 254

(6) The Distinctive Emblem (Articles XVIII. to XXIII.) 254

(7) Application and Carrying out of the Convention (Articles XXIV. to XXVI.) . . . 255

(8) Prevention of Abuses and Infractions (Articles XXVII. and XXVIII.) 256

General Provisions (Articles XXIX. to end) . . 256

Final Protocol of the Conference for the Revision of the Geneva Convention 258

6. Declaration of Paris (*April* 16, 1856) . . . 259

Additional Protocol to the Convention relative to the Establishment of an International Court of Prize . 260

7. Oxford Manual on Naval War (*August* 1913), Preamble: 262

(1) Of the Places where Hostilities may be carried on (Article I.) 264

(2) Of the Armed Forces of Belligerent States (Articles II. to XIII.): 264

(*a*) Ships of War (Article II.). . . . 264

(*b*) Conversion of Public and Private Vessels into Ships of War (Articles III. to IX.) . . 264

(*c*) Conversion of Ships of War into Public or Private Vessels (Article X.) . . . 264

(*d*) Belligerent *personnel* (Article XI.) . . 266

(*e*) Privateering, Private Vessels, Public Vessels not being Ships of War (Article XII.) . . 266

PAGE

(*f*) Population of Unoccupied Territory (Article XIII.) 266

(3) Of the Methods of Injuring the Enemy (Articles XIV. to XXX.): 266

(*a*) Principles (XIV.) 266

(*b*) Treacherous and Barbarous Methods (Articles XV. to XVIII.) 266

(*c*) Torpedoes (Article XIX.) 268

(*d*) Submarine Mines (Articles XX. to XXIV.) . 268

(*e*) Bombardment (Articles XXV. to XXIX.) . 270

(*f*) Blockade (Article XXX.) 272

(4) Of the Rights and Duties of a Belligerent with respect to Enemy Property (Articles XXXI. to LIV.): 272

(*a*) Vessels and Cargoes. Ships of War (Article XXXI.) 272

(*b*) Public and Private Vessels. Arrest, Visit and Search (Article XXXII.) 272

(*c*) Principle of Capture (Articles XXXIII. to XXXV.) 274

(*d*) Relaxation of the Principle of Capture (Articles XXXVI. to XL.) 274

(*e*) Exceptions to the Principles laid down in Articles XXXI. and XXXIII. Hospital-Ships (Articles XLI. to XLIV.) . . 276

(*f*) Cartel-Ships (Article XLV.) 278

(*g*) Vessels employed on Missions (Article XLVI.) . 280

(*h*) Boats employed in Coast Fishing and Small Local Navigation (Article XLVII.) . . 280

(*i*) Vessels furnished with a Safe-Conduct or Licence (Article XLVIII.) 280

(*j*) Cessation of Immunity (Article XLIX.) . . 280

(*k*) The Rights of the Belligerent within the Area of his Operations (Article L.) 280

(*l*) Of Enemy Character (Article LI.) . . 282

(*m*) Of Change of Flag (Article LII.) . . 282

(*n*) Postal Correspondence (Article LIII.) . . 284

(*o*) Submarine Cables (Article LIV.) . . 284

PAGE

(5) Of the Rights and Duties of a Belligerent relating to Persons (Articles LV. to LXXXVII.) : . 284
(*a*) *Personnel* of Vessels. Ships of War (Article LV.) 284
(*b*) Public or Private Vessels (Articles LVI. to LXI.) 286
(*c*) Passengers (Articles LXII. and LXIII.) . 286
(*d*) Religious, Medical and Hospital Staff (Article LXIV.) 286
(*e*) *Parlementaires* (Article LXV.) . . . 288
(*f*) Spies (Articles LXVI. to LXVIII.) . . 288
(*g*) Requisitions levied on the Nationals of the Enemy State. Guides, Pilots and Hostages (Article LXIX.) 290
(*h*) Prisoners of War (Articles LXX. to LXXX.) . 290
(*i*) Wounded, Sick, Shipwrecked and Dead (Articles LXXXI. to LXXXVII.) . . . 292

(6) Of the Rights and Duties of the Belligerent on Occupied Territory : 294
(*a*) Occupation : its Extent and Effect (Article LXXXVIII.) 294

(7) Of Agreements between Belligerents (Articles LXXXIX. to XCIX.) : . . . 294
(*a*) General Rules (Articles LXXXIX. to XC.) . 294
(*b*) Capitulation (Article XCI.) . . . 296
(*c*) Armistice (Article XCII. to XCVIII.) . . 296
(*d*) Suspension of Hostilities (Article XCIX.) . 296

(8) Of the Formalities of Seizure and Prize Judgments (Articles C. to CXV.) : 298
(*a*) Formalities of Seizure (Articles C. to CIII.) . 298
(*b*) Destruction of Vessels and Merchandise liable to Confiscation (Articles CIV. and CV.) . 300
(*c*) Employment of Vessels seized (Article CVI.) . 300
(*d*) Loss of Prizes by Sea Adventure (Article CVII.) 300
(*e*) Rescue (Article CVIII.) 300
(*f*) Prize Judgments (Articles CIX. to CXV.) . 300

(9) Of the Termination of Hostilities—Peace (Article CXVI.) 302

Additional Article (relating to Indemnities for Violation of Regulations by Belligerents) . 304

ALPHABETICAL INDEX 307

N.B.—Sir T. Barclay's *Problems of International Practice and Diplomacy* will be hereinafter referred to as *Problems*.

I. FIRST AND SECOND HAGUE CONFERENCES COMPARED

THE first Peace Conference sat at The Hague between the 18th May and the 29th July 1899. It was attended by plenipotentiaries of the following independent States: Great Britain, France, Germany, Austria-Hungary, Russia, Italy, Spain, Portugal, Belgium, Holland, Denmark, Sweden and Norway, Greece, Roumania, Servia, Switzerland, Montenegro, Luxemberg, Turkey (including Bulgaria), United States, Mexico, Japan, Persia, Siam, and China. The result of the Conference was the adoption of—

I. A Convention for the pacific settlement of international disputes.

II. A Convention relating to the laws and customs of war by land.

III. A Convention for the adaptation to maritime warfare of the principles of the Geneva Convention of the 22nd August 1864.

IV. And three Declarations on the following matters:

(*a*) Prohibition of the launching of projectiles and explosives from balloons or by other similar new methods.[1]

(*b*) Prohibition of the use of projectiles the only object of which is the diffusion of asphyxiating or deleterious gases.

(*c*) Prohibition of the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope, of which the envelope does not entirely cover the core, or is pierced with incisions.

These Conventions and Declarations formed separate Acts which the States represented could sign separately.[2]

The Conference furthermore adopted unanimously the following Resolution:

[1] Adopted for a period of five years only.

[2] See *Problems* for text in full, pp. 213 *et seq.*, and dates of ratification, p. 255.

"The Conference is of opinion that the restriction of military budgets, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind."[1]

The following *Vœu* was also unanimously adopted:

"The Conference, taking into consideration the preliminary steps taken by the Swiss Federal Government for the revision of the Geneva Convention, expresses the wish that steps may be shortly taken for the assembling of a special Conference[2] having for its object the revision of that Convention."

The following *Vœux* were adopted, but not unanimously:

"1. The Conference expresses the wish that the question of the rights and duties of neutrals may be inserted in the programme of a Conference in the near future.

"2. The Conference expresses the wish that the questions with regard to rifles and naval guns, as considered by it, may be studied by the Governments with the object of coming to an agreement respecting the employment of new types and calibres.

"3. The Conference expresses the wish that the Governments, taking into consideration the proposals made at the Conference, may examine the possibility of an agreement as to the limitation of armed forces by land and sea, and of war budgets.

"4. The Conference expresses the wish that the proposals which contemplate the declaration of the inviolability of private property in naval warfare may be referred to a subsequent Conference for consideration.

"5. The Conference expresses the wish that the proposal to settle the question of the bombardment of ports, towns, and villages by naval forces may be referred to a subsequent Conference for consideration."

Great Britain signed and became a party to the three Conventions, but not to all the Declarations, etc.

In March–April 1906 the Emperor of Russia issued an official invitation to hold the second Conference in July 1906. Representations from the United States and elsewhere led to the postponement of the Conference till 1907. The chief passages of the letter of invitation were as follows:

"In taking the initiative in convoking a second Peace Conference, the Imperial Government has had in view the necessity of giving a fresh development to the humanitarian principles which served as a basis for the work of the great international meeting of 1899.

"It believed at the same time that it would be opportune to increase, as far as possible, the number of States participating in the work of the projected Conference; and the enthusiasm with which this appeal has been met testifies to the depth and universality of the sentiment of solidarity which makes for the application of ideas having as their object the good of humanity as a whole.

"The first Conference separated with the conviction that its work should be completed subsequently through the regular progress of enlightenment

[1] See *Problems* for text of original proposals of Russian Government, pp. 123, 124.

[2] This Conference was held at Geneva in June–July 1906. The revised Convention, composed of 33 Articles, is dated July 6, 1906. See Appendices, p. 247.

among peoples and in accordance with the dictates of experience. Its most important creation, the International Court of Arbitration, is an institution which has already been put to the test, and has brought together in an Areopagus for the benefit of humanity, jurists who enjoy universal respect. It is also evident how beneficent International Commissions of Inquiry have been in the solution of difficulties between States.

"None the less, there is still a need of improvement in the Convention concerning the Pacific Regulation of International Disputes. As a result of recent arbitrations, the jurists sitting as an International Court have raised certain questions of detail which must be decided so as to give the said Convention its necessary development. It has seemed especially desirable that fixed principles should be laid down regarding the *languages*[1] to be used in the procedure of the Court, in view of the difficulties which might arise in the future, as the number of applications to the Court of Arbitration increased. There is also need of certain improvements in the working of the International Commissions of Inquiry.

[1] See pp. 21, 27–28.

"Touching the regulation of the Laws and Practices of Land Warfare, the arrangements made by the first Conference need no less to be completed and defined in such a way as to prevent any misunderstanding.

"As regards Naval Warfare, of which the laws and usages differ in certain points in different countries, it is necessary to establish fixed regulations in harmony with the requirements of the rights of belligerents and the interests of neutrals.

"An agreement touching these matters should be drawn up, and would form one of the most notable parts of the work of the coming Conference.

"The Imperial Government, believing that it is necessary only to examine questions which press with particular urgency inasmuch as they arise from the experience of recent years, and without touching on those which belong to the *limitation of Military and Naval Forces*, proposes therefore as programme for the Conference the following principal points:

"1. Improvements to be made in the regulations of the Convention touching the pacific settlement of international disputes regarding both the *Court of Arbitration* and the *International Commissions of Inquiry*.

"2. Additions to be made in the regulations of the Convention of 1899 touching the *Laws and Practices of Land Warfare*, among others the opening of hostilities, the rights of neutrals on land, etc. Declarations of 1899, one among them being renewable—the question of its renewal.

"3. Elaboration of a Convention touching the Laws and Practices of Naval Warfare concerning—

"The special operations of naval warfare, such as the *bombardment of ports, towns, and villages* by a naval force, the laying of *mines*, etc.

"The transformation of commercial vessels into warships.

"The *private property of belligerents at sea*.

"The delay to be accorded to commercial vessels in leaving *neutral ports* or those of the enemy after the outbreak of hostilities.

"The rights and duties of *neutrals at sea*, among other questions that of *contraband*, the treatment to which the ships of belligerents should be subjected in neutral ports, *destruction by force majeure of neutral ships* of commerce as prizes.

"In the said Convention should be introduced arrangements relative to land warfare, which should be equally applicable to naval warfare.

"Additions to be made in the Convention of 1899 for the adaptation to naval warfare of the principles of the Geneva Convention of 1864.

"As at the Conference of 1899, it should be understood that the deliberations of the proposed Conference shall deal neither with the political relations among States, nor with the order of things established by treaties, nor with any general interests which were not directly included in the programme adopted by the Cabinets.

"The Imperial Government desires to emphasise that the issue of this programme, and its eventual acceptance by the various States, must not be held to prejudice any opinion which might be formulated in the Conference regarding the solutions to be given to the questions submitted for discussion. Equally, it should belong to the projected Conference to determine the order of questions for discussions and the form to be given to its decisions, according

as it may be considered preferable to include certain of them in new conventions, or to add them as supplements to existing conventions.

"In formulating the above programme the Imperial Government has taken into account, as far as possible, the desires expressed by the first Peace Conference, notably in regard to the rights and duties of neutrals, private property of belligerents at sea, the bombardment of ports, towns, etc. It expresses the hope that the —— Government will see in the points proposed, taken as a whole, an expression of the desire to approach that lofty ideal of International Justice which is the constant goal of the entire civilised world."[1]

The chief cause of adjournment of the Conference was the meeting of the Pan-American Congress at Rio de Janeiro fixed already for the month of July,—a Congress with which most of the North and South American experts available for The Hague Conference would be occupied. It was decided at this Congress that to the questions for discussion at The Hague Conference be added that of the enforcing by arms of commercial and financial obligations.

The question of the reduction of military and naval budgets and armaments was not placed in the van of the subjects for discussion, as it was at the Conference of 1899, though the British Government steadfastly asserted the necessity of keeping this subject in the front. A serious controversy on the advisability of including it in the programme in fact threatened to disturb the harmony of the Governments at the outset, and caused the British Prime Minister, Sir H. Campbell-Bannerman, to publish a remarkable statement on the subject in the *Nation* of March 2, 1907, protesting vigorously against the suggestion that the discussion of the subject "would be fraught with danger."[2]

The Conference of 1907, which sat from June 15 to October 8, was attended by representatives of the following forty-four states:

Great Britain, France, Germany, Austria-Hungary, Russia, Italy, Turkey, Spain, Portugal, Belgium, Holland, Denmark, Sweden, Norway, Greece, Switzerland, Montenegro, Roumania, Bulgaria, Servia, Luxemburg, the United States, Mexico, Argentina, Chile, Brazil, Bolivia, Peru, Paraguay, Uruguay, Venezuela, Salvador, Panama, Nicaragua, Guatemala, Ecaudor, Columbia, Cuba, Haiti, St. Domingo, Japan, China, Persia, and Siam.

Though, in spite of the resolution and *Vœu* on armaments handed down from the Conference of 1899, this subject made no progress, Conventions of far-reaching importance were adopted on other matters. These were as follows:

I. Convention for the pacific settlement of international disputes;[3]

II. Convention respecting the limitation of the employment of force for the recovery of contract debts;

III. Convention relative to the commencement of hostilities;

IV. Convention concerning the Laws and Customs of War on Land;[4]

[1] The following is, according to the Vienna *Neue Freie Presse*, the text of the circular dispatch addressed on April 3, 1907, by M. Isvolsky, Russian Minister of Foreign Affairs, to the Russian representatives abroad:

"Before the summoning of the second Peace Conference, the Imperial Government considers it its duty to lay the present situation before the Powers who have accepted its invitation. All the Powers to whom the Imperial Government, in April 1906, communicated its outline of the programme for the labours of the new Conference have assented to it. The following observations, however, have been made with reference to this programme:

"The Government of the United States has reserved the right to submit to the second Conference two supplementary questions, one relating to the reduction or limitation of armies, and the other relating to the securing of an obligation to observe certain limitations in the employment of force for the collection of ordinary public debts arising out of treaties.

"The Spanish Government has expressed the wish to discuss the question of the limitation of armaments, and has reserved to itself the right to treat this question at the next Hague meeting.

"The British Government has communicated the fact that it attaches great importance to the discussion at the Conference of the question of expenditure upon armaments, and it has reserved the right to raise this question. It has also reserved the right to abstain from participating in the discussion of any articles in the Russian programme which, in its opinion, would not lead to useful results.

"Japan is of the opinion that certain questions, not specially enumerated in the programme, might advantageously be taken up among the matters which are to be examined, and has reserved the right to abstain or to withdraw from any discussion which may take a direction or show a tendency which, in its judgment, would not conduce to a useful result.

"The Governments of Bolivia, Denmark, Greece, and the Netherlands have likewise in general reserved the right to submit to the judgment of the Conference other matters which exhibit an analogy with those expressly adduced in the Russian programme.

"The Imperial Government deems it its duty to declare that Russia, on its part, adheres to the programme of April 1906 as the basis for the deliberations of the Conference, and in turn reserves the right to abstain from any discussion which does not appear to it to tend to a practical result.

"Observations analogous to these last have been made by the Governments of Germany and Austria-Hungary, which likewise have reserved the right to abstain from the discussion of any question which does not appear to them to tend to practical results.

"The Imperial Government, while bringing these reservations to the knowledge of the Powers, and expressing the hope that the labours of the second Peace Conference will result in fresh securities for a good understanding among the nations of the civilised world, has at the same time addressed a request to the Government of the Netherlands to summon the Conference for the early part of June."—Translation given in *Herald of Peace*, May 1907.

[2] See text of Sir H. Campbell-Bannermann's statement in Barclay, *Problems*, p. 8.

[3] This is an amended edition of that of 1899.

[4] This is an amended edition of that of 1899.

V. Convention respecting the rights and duties of neutral Powers and persons in war on land;

VI. Convention relative to the status of enemy merchant ships at the outbreak of hostilities;

VII. Convention relative to the conversion of merchant ships into warships;

VIII. Convention relative to the laying of automatic submarine contact mines;

IX. Convention respecting bombardment by naval forces in time of war;

X. Convention for the adaptation of the principles of the Geneva Convention to maritime war;[1]

XI. Convention relative to certain restrictions on the exercise of the right of capture in maritime war;

XII. Convention relative to the establishment of an International Prize Court;

XIII. Convention respecting the rights and duties of neutral Powers in maritime war;

XIV. Declaration prohibiting discharge of projectiles, etc., from balloons.

A draft Convention relative to the creation of a Court of Arbitral Justice was also drawn up in connection with the first of four following *Vœux*:

"1. The Conference calls the attention of the Signatory Powers to the advisability of adopting the annexed draft Convention for the creation of a Court of Arbitral Justice, and of bringing it into force as soon as an agreement has been reached respecting the selection of the Judges and the constitution of the Court;

"2. The Conference expresses the opinion that, in case of war, the responsible authorities, civil as well as military, should make it their special duty to ensure and safeguard the maintenance of pacific relations, more especially of the commercial and industrial relations between the inhabitants of the belligerent States and neutral countries;

"3. The Conference expresses the opinion that the Powers should regulate, by special treaties, the position, as regards military charges, of foreigners residing within their territories;

"4. The Conference expresses the opinion that the preparation of regulations relative to the Laws and Customs of Naval War should figure in the programme of the next Conference, and that in any case the Powers apply, as far as possible, to war by sea the principles of the Convention relative to the Laws and Customs of War on Land";[2]

Finally, the Conference recommended to the Powers "the assembling of a third Peace Conference, which might be held within a period corresponding to that which had elapsed since

[1] This is an amended edition of that of 1899.

[2] See the *Projet* on this subject of the Institute of International Law, pp. 266 *et seq.*

the preceding Conference, at a date to be fixed by common agreement among the Powers; and it called their attention to the necessity of preparing the programme of this third Conference a sufficient time in advance to ensure its deliberations being conducted with the necessary authority and expedition."

In order to attain this object the Conference considered that it "would be very desirable that, some two years before the probable date of the meeting, a preparatory Committee should be charged by the Governments with the task of collecting the various proposals to be submitted to the Conference, of ascertaining what subjects are ripe for embodiment in an International Regulation, and of preparing a programme which the Governments should decide upon in sufficient time to enable it to be carefully examined by the countries interested," and that this Committee should further be entrusted with the task of proposing a system of organisation and procedure for the Conference itself.

A comparison of the two Conferences shows that they differed essentially as regards their immediate object. That of 1899 was essentially a Peace Conference, called for the express purpose of arresting the growth of armaments and war budgets. From the second one all discussion on this subject was deliberately excluded, though a resolution was unanimously adopted in favour of its future consideration, to which I shall revert below. Of the three Conventions adopted in 1899 one was a code of rules for the observance of armies in the field, which only gave effect, with a few modifications, to the unratified rules drawn up at the Conference called by the Czar Alexander II. and held at Brussels in 1874, rules which were afterwards carefully overhauled by the Institution of International Law, and are known to students of International Law as the Oxford Rules of 1880, so called because adopted at the meeting of the Institute held that year at Oxford. The second merely adapted the already existing rules of the Geneva Convention to maritime warfare. The third, viz., that on arbitration, alone dealt with new matter.

The work of the second Conference was of a very different kind, as has been seen from the list given above of the Conventions, etc., adopted. It not only embraced a thorough revision of these three Conventions, but covered no small proportion of different other branches of International Law. Without taking into account the modifications introduced by the Conventions into existing practice, the bare fact of turning the rules of International Law, hitherto sneered at as a body of theorists' notions, into a written code, accepted by all civilised mankind, is in itself a great achievement, greater than the public seems yet to have realised. The late Lord Salisbury, who was no petty authority on questions of international practice, speaking, in 1887, on International Arbitration, observed:

"International Law has not any existence in the sense in which the term 'law' is usually understood. It depends generally upon the prejudice of writers of text-books."

Still more recently, the late Lord Chief Justice Russell of Killowen, in his address at the meeting of the Bar Association at Saratoga Springs in 1896, vindicating the propriety of calling International Law "law," described the same feeling:

"It is said by some that there is no International Law, that there is only a bundle, more or less confused, of rules to which nations more or less conform, but that International Law there is none."

This is no longer true of the matter with which The Hague Conferences have dealt. They have brought order, precision, and civilised methods into matters in which, until recently, the very idea of codification was too remote to be seriously considered.[1] In 1899 the Declaration of Paris[2] was still the only case of any rules of law which had been adopted by an international enactment as "law" in the sense of the late Lord Salisbury. To understand the immensity of the work of 1907 we need only compare with this short declaration the vast groundwork of international legislation laid down by the second Conference.

Events have proved that there was no justification for the fear frequently expressed before the meeting of the Conference that it would prove a failure and discourage public opinion. The real danger was that, in undertaking too much, it would turn out carelessly drafted work, and this, probably, practice will ultimately show to have been the case as regards a good deal of it. If it be so, it will have been due to the fact that the work of the Conference was ill-prepared. There was undoubtedly a great waste of time on preparatory work, which would certainly have been better carried out, had it been done, without pressure of time, before the Conference came together. The fact that the bulk of the work had to be drafted in small special committees, while over two-thirds of the delegates only came together from time to time to discuss the work handed in by these special committees, marks the way in which better preparation for such Conferences may be effected. This experience led the Conference of 1907 to express a wish that a restricted International Committee should prepare the preliminary drafts for submission to the third Conference in advance.

[1] It is curious to see the distrust of a man of even such advanced views as the late Lord Russell of Killowen of the codification of International Law. In the above-quoted address in 1896 he said:

"It (International Law) is in a state of growth and transition. To codify it would be to crystallise it: uncodified, it is more flexible and more easily assimilates new rules. While agreeing, therefore, indeterminate points should be determined, and that we should aim at raising the ethical standard, I do not think we have yet reached the point at which codification is practicable or, if practicable, would be a public good."

[2] See the text of the Declaration, p. 259.

II. AN INTERNATIONAL PRIZE COURT

AMONG the Conventions adopted in 1907 was one, No. 12, providing for the establishment of an International Prize Court, a matter which will certainly become one of urgency at the close of the war.

Under the system hitherto prevailing, it is the judge appointed by the captor who decides whether the capture was a legitimate one or not.

In *Problems of International Practice and Diplomacy* I discussed different considerations for and against the project.

Experience of both British and German diplomacy in connection with the bias shown by the Russian Prize Courts in the Russo-Japanese war had created a strong disposition in the Foreign Offices of these two countries antagonistic to the existing system, and both the British and German delegates had been instructed to press the subject on the Conference. Simultaneously they presented two projects which, although making for the same goal, were inspired by different ideas. These were consolidated, and, to use the words of the *rapporteur*, M. Renault, "owing to real good will and a keen desire for an understanding, one project was evolved, in which it would be futile to trace the source of any of its sections from those of the two original projects."

The Commission which dealt with the subject had to cope with two difficulties—the one affected the jurisdiction of the Court. Was the Court to be a Court of first instance, or was it to possess revising powers only? It soon became apparent that as a Court of first instance much of the time of The Hague Prize Tribunal might be unnecessarily occupied by matters of detail which could be safely, and more conveniently, dealt with by the national Courts. If so, was the Court to exercise its revising jurisdiction after the finding of the national Court of first instance, or was the jurisdiction of the national Courts to be exhausted before the matter could be brought up before The Hague Prize Court? Great Britain and the United States[1] favoured the latter alternative. This solution of the difficulty carried with it the presumptive safeguard that the national appellate Court might correct any error in the Court below, and

[1] The appellate jurisdictions from the British and United States Prize Courts are respectively the Judicial Committee of the Privy Council and the United States Supreme Court.

thus render the appeal to The Hague Tribunal unnecessary; further, if, even then, one of the parties feeling itself aggrieved carried its appeal to The Hague, the judges there would have the benefit of the decision of judges of the higher authority possessed by national Courts of Appeal.[1]

[1] See Scott, *The Hague Peace Conferences*, vol. i. p. 475.

These considerations prevailed, and the project was adopted after provision had been made that: firstly, no more than two national jurisdictions should be competent to adjudicate upon the matters at issue; secondly, the "legislation of the belligerent captor" should be left to decide whether the litigious matter should go to The Hague after a first or appellate judgment had been given, and, in case it decided in favour of the two grades of national jurisdiction, it was still competent for it to decide on recourse to The Hague Prize Court after judgment in first instance; thirdly, should the national Courts fail to give a final judgment within two years from the date of the capture, the case might be carried direct to The Hague Prize Court.

Since its adoption at the Conference, a difficulty of a constitutional character, standing in the way of its ratifications, has been discovered by the United States Government. Article III., section 1, of the United States Constitution provides that "the judicial power of the United States shall be vested in one Supreme Court," and it is argued that the use of the word *supreme* forbids any appeal against its decisions. To obviate this interference with the judicial system of the United States, it has been suggested by the United States Government that the "*question* involved in the decision" and not the *judgment* should be submitted to The Hague Prize Court. The proceedings there would be in the nature of a trial *de novo*, and the decision of The Hague Prize Court would be limited to the assessment of damages in cases of illegal capture; the judgment of the national Court would thus not be directly involved or reversed.

This proposal of the United States was laid before the delegates at the London Conference (1908–9), who unanimously agreed to call their Governments' attention to the advantage of adopting the American suggestion at the time of the deposit of ratification of the Prize Court Convention, and an additional Protocol to this effect was signed at The Hague on September 19, 1910.[2]

[2] See Appendices, p. 260.

The other difficulty was that there were no generally recognised rules of law applicable to prize.

The German project provided that the Court of first instance, that is the national Prize Court, should apply the law of the capturing State, and that this law should be binding on the International Appeal Court. The British project provided that the Court should administer the International Law of naval prize; this assumed that there was a uniform law, which there is not. Eventually a clause was adopted which runs as follows:

"If a question of law to be decided is covered by a Treaty in force between the belligerent captor and a Power which is itself, or the subject or citizen of which is, a party to the proceedings, the Court is governed by the provisions of the said Treaty.

"In the absence of such provisions, the Court shall apply the rules of International Law. If no generally recognised rule exists, the Court shall give judgment in accordance with the general principles of justice and equity."

The original British idea was "to secure the adaptation" of the machinery of the existing Hague Court to the purposes of an "international tribunal of appeal" from decisions of belligerent Prize Courts. The official instructions published in the Correspondence respecting the Second Hague Conference observe in respect to this proposal that the "judgment of the Tribunal in such cases would probably prove the most rapid and efficient means which can, under existing conditions, be devised for giving form and authority to the canons of International Law in matters of prize." The advantages, they stated, would far outweigh any difficulty which might arise from the fact that some alterations in the municipal laws of this country and probably also of other States would be required, and that "H.M. Government considered that if The Hague Conference accomplished no other object than the constitution of such a Tribunal, it would render an inestimable service to civilisation and mankind."

The British wish was fulfilled and a Convention creating such a Court was adopted.

The fact, nevertheless, remained that the Court was established for the administering of a uniform International Law of naval war which had still to be formulated, and another Conference, to enable the Powers to give effect to the Convention in question, was necessary. By invitation of the British Government it met a year later in London, and resulted in the signing of the Declaration which bears the name of that city.

III. DECLARATION OF LONDON

With a view to the creation of an International Law of prize binding on the proposed Prize Court and the avoidance of the vague uncertainty of "general principles of justice and equity," the British Government on February 27, 1908, issued an invitation to the maritime Powers to hold a Conference in London with the object, as stated in the invitation, of arriving at an agreement as to what are the principles of International Law, within the meaning of paragraph 2 of Article VII. of The Hague Convention of 1907, in respect of those matters wherein the practice of nations has varied and of then formulating the rules which, in the absence of special Treaty provisions applicable to any particular case, the Court should observe in dealing with appeals brought before it for decision. In his communications to the interested Powers, Sir Edward Grey showed that on various questions connected with maritime war, divergent views and practices prevailed among the nations of the world. Upon some of these subjects an agreement had been reached at The Hague, but on others it had been found impossible, within the period for which the Conference assembled, to arrive at an understanding. The impression had been gained that the establishment of an International Prize Court would not meet with general acceptance so long as vagueness and uncertainty existed as to the principles which the Court, in dealing with appeals brought before it, would apply to questions of far-reaching importance affecting naval policy and practice.

The Powers invited to the Conference were Austria-Hungary, France, Germany, Italy, Japan, Russia, Spain, and the United States, and, with the concurrence of all the Powers invited to the Conference, an invitation was subsequently extended to the Government of the Netherlands. The representatives of these Powers met in London on December 4, 1908, and sat till February 26, 1909. The result of their deliberations was a uniform code of the International Law of Prize.[1]

The subjects which were submitted by the British Government as the programme of the Conference, were as follows:

(*a*) Contraband, including the circumstances under which particular articles can be considered as contraband; the penalties for their

[1] The Colonial Premiers were unanimous in supporting it as "a great advance in International Law," in the words of Sir Joseph Ward. This statement was made public by Mr. M'Kinnon-Wood in his remarkable speech on the subject in the House of Commons on June 28, 1911. See also Sir Edward Grey's reply to Mr. Balfour on July 3.

carriage; the immunity of a ship from search when under convoy; and the rules with regard to compensation where vessels have been seized but have been found in fact only to be carrying innocent cargo.

(*b*) Blockade, including the questions as to the locality where seizure can be effected, and the notice that is necessary before a ship can be seized.

(*c*) The doctrine of continuous voyage in respect both of contraband and of blockade.

(*d*) The legality of the destruction of neutral vessels prior to their condemnation by a Prize Court.

(*e*) The rules as to neutral ships or persons rendering "unneutral service" ("assistance hostile").

(*f*) The legality of the conversion of a merchant vessel into a warship on the high seas.

(*g*) The rules as to the transfer of merchant vessels from a belligerent to a neutral flag during or in contemplation of hostilities.

(*h*) The question whether the nationality or the domicile of the owner should be adopted as the dominant factor in deciding whether property is enemy property.

The subjects dealt with in the Declaration included the whole of these items, except the last.

Of the clauses of the Declaration which have given rise to controversy, the most important are those relating to conditional contraband.

Article XXXIII. provides that "conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a Government department of the enemy State, unless in this latter case the circumstances show that the goods cannot in fact be used for the purposes of the war in progress. This latter exception does not, however, apply to a consignment coming under Article XXIV. (4), *i.e.* gold and silver in coin or bullion or paper money."

Article XXXIV. provides that "the destination referred to in Article XXXIII. is presumed to exist if the goods are consigned to enemy authorities or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. *A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy.*"

The controverted passage (italicised above) is in the original text as follows: "Il en est de même si l'envoi est à destination d'une place fortifiée ennemie ou d'une autre place servant de base aux opérations des armées ennemies." With justice it has been contended, that any place in narrow islands like those of the United Kingdom may be regarded as serving as a base for war operations, and that, therefore, food-stuffs destined for any port thereof might under this Article be held to be conditional contraband. On the other hand, there is nothing in existing conditions to prevent the enemy from declaring food supplied to the British island population to be absolute contraband, on the ground that, being indispensable to national defence,

it has one of the essential characteristics distinguishing absolute from conditional contraband.

In the Russo-Japanese war, Russia in her proclamation included among articles unconditionally contraband, "rice, provisions, . . . which may be used for a warlike purpose, if they are transported on the account of, or are destined for, the enemy"—she did not say for the enemy's forces. In answer to Lord Lansdowne's protest, Count Lamsdorff, the Russian Foreign Minister, remarked that in the absence of any international decision as to what was or was not contraband of war, it appeared to be within the power of a belligerent arbitrarily to decide what articles were to be so considered. Great Britain's protest certainly led to an alteration of the then Russian rules.[1] The point, however, is that Count Lamsdorff, on behalf of Russia, took a view, which is not that held in this country, of the nature of absolute contraband. The Declaration of London would, of course, be a bar to the contention that food can be included among absolute contraband, and in case of any future war, no such contention could be set up against the plain terms of the Declaration. What has been done once, however, may be done again, and perhaps in this connection we ought not to forget that at the end of the eighteenth century, during the war of the French Revolution, the British Government took advantage of the then prevailing scarcity of food to seize all ships carrying provisions to French ports.

Ambiguity might be removed by inserting an agreed interpretation in the Protocol of ratification in some such form as the following: "Ratified, subject to the sense of the words, 'une autre place servant de base aux forces ennemies,' being agreed not to apply to commercial ports unless in the actual occupation of the enemy's forces."[2]

It cannot be denied that on all other points the changes which have been made for securing homogeneity of practice seem advantageous to neutrals. To put an end to uncertainty is in itself an advantage to neutrals, and, as this country has the largest shipping interest in the world, it also has the largest neutral interest in any war between other countries.

On the other hand, the creation of a non-contraband list, to which additions can be made at future dates, the restriction of absolute contraband to certain fixed articles, the fixing of certain articles as conditional contraband without notice, are of first-class importance to neutrals in general, and the provisions forbidding the classification of food-stuffs as absolute contraband and of raw cotton even as conditional contraband of war are of value to this country *qua* belligerent. Thus, as regards raw cotton, during the Russo-Japanese war, this material gave rise to a controversy between the British and Russian Governments. An Imperial Order, dated April 1, 1904, added cotton to the

[1] See *Problems*, p. 96. See also Oppenheim, *International Law*, 2nd ed. vol. ii. p. 483.

[2] When the United States Government found it could not ratify The Hague Convention for the establishment of an International Prize Court without qualifying some of its provisions, it submitted an additional Protocol (September 19, 1910) to the maritime Powers, who agreed to the necessary qualifications being declared in the instrument of ratification. Why should this example not be followed? See Appendices, p. 260.

list of absolute contraband. The Russian Government (May 18, 1904) explained that the prohibition applied only to raw cotton suitable for the manufacture of explosives, and not to yarns and other manufactured articles. "The object of the prohibition," it stated, "was to prevent the importation of an article which could be used for the manufacture of munitions of war, and as it was impossible to distinguish between the cotton imported for innocent purposes and cotton imported for use as munitions of war, it had been found necessary to issue the proclamation in question. There was no intention of introducing a new doctrine of contraband of war." Sir Charles Hardinge pointed out to Count Lamsdorff that British India is a large exporter of raw cotton to Japan, and that the quantity of raw cotton utilisable for explosives would be only a very small proportion compared with that exported for peace purposes. The importance of raw cotton to this country is incomparably greater than to India. Under the existing practice, it would be impossible to distinguish between purposes which even the importer himself might not know, and an enemy might very reasonably contend that owing to this doubt all raw cotton imported into these islands must be considered as contraband. Under the Declaration no raw cotton, in any circumstances, cannot be treated as contraband.

In recent discussions on the Declaration the tendency has been to forget that "necessity of war" plays a part which enables the belligerent to construe existing practice liberally to his own advantage. "The reasonable necessities of war," said the late W. F. Hall, "are marked out in a broad way by the immediate objects at which a belligerent aims in attacking the person of his enemy. He endeavours to break down armed resistance, because upon the ability of his enemy to offer it depends the power of the latter to reject the terms to which it is sought to bring him." "The object of war from a military point of view," says the British *Officers' Manual*, "is to procure the complete submission of the enemy at the earliest period with the least possible expenditure of men and money."

It cannot be denied that an island belligerent is in a different position from a continental belligerent. It has been impossible, in a war to which Great Britain is a party, to do otherwise than adopt Count Lamsdorff's contention that "in the absence of any international decisions as to what is or is not contraband of war, it appears to be within the power of a belligerent arbitrarily to decide what articles may be treated as absolute contraband." There is still the question of "military necessity," which seems to cover any disregard for the rules of warfare affecting property. Commentators cannot rely absolutely on agreements made in time of peace for the protection of property in time of war.

As regards the doctrine of "continuous voyage" there are "political" considerations which, like those which I have just insisted upon, have no doubt not escaped the official notice. The doctrine of continuous voyage is that destination to a neutral port is not conclusive evidence of the non-contraband character of goods, that ultimate destination to the enemy may be proved and the goods condemned as contraband though carried between two neutral ports. The Declaration of London (Art. XXXV.) forbids the application of the doctrine to conditional contraband. Thus, food-stuffs shipped on neutral bottoms to Antwerp or Rotterdam, though they may have an ultimate enemy destination, cease under the Declaration to be liable to seizure as contraband. This had been dealt with by commentators as a provision favourable to this country, but it had not been dealt with in the aspect in which it is still more favourable to an enemy of this country. The growth of population tends to reduce the surplus of food-stuffs available for export, and in a thickly populated part of the world like Europe, States are necessarily bound to keep their eyes open to possibilities of shortage. In the event of a war between Great Britain and a continental Power, the abolition of the doctrine of continuous voyage, in respect of conditional contraband, would have placed the enemy of this country beyond the scope of any attempt to cut off his supply of food from countries which have a steady surplus. American wheat shipped to Denmark, Holland, or Belgium would have been free, though destined for discharge into trucks ready to carry it to any country of Europe with which Great Britain was at war. This provision of the Declaration was, therefore, regarded as of considerable value to continental Europe, and especially to Germany. To this country it was also supposed to have its value, inasmuch as it might have restricted the area over which Great Britain in ultimate emergencies might be obliged to protect her trans-oceanic food supply, to the North Sea and British Channel.

Of other subjects which have given rise to controversy, the provisions relating to the sinking of ships carrying contraband and those restricting blockade to the enemy coast are simply a re-enactment of existing practice, and the omission to deal with the question of conversion of merchant vessels into warships on the high seas alters nothing.

In a Naval Prize Bill which was passed by the House of Commons, by a majority of forty-seven, on December 8, 1911, and rejected on the 13th of the same month by the House of Lords, provision was made for the appointment of a Judge and deputy-Judge to the International Prize Court, "in the event of its being constituted," and for the payment of any contribution towards its general expenses out of the Consolidated Fund. It was also provided that "the High Court and every Prize Court in a British possession should enforce within its jurisdic-

tion all orders and decrees of the International Prize Court in appeals and cases transferred to the Court under the Act."

The rejection by the House of Lords of the Naval Prize Bill left the Convention for the establishment of an International Prize Court unratified. This did not necessarily interfere with the practical enforcing, in part or even in whole, of the Declaration. Though its preamble states that its object is to supply rules for application in the International Prize Court, of which it assumes the constitution, it has, in fact, already been tacitly ratified, in parts at least, by Italy, Turkey, and Russia. During the Turco-Italian war, by a Royal Decree dated October 13, 1911, the Italian Government issued instructions "in conformity with" the Declaration of Paris and with the principles laid down in The Hague Convention "as well as in the Declaration of London of February 26, 1909, which the Royal Government desires should also be observed in so far as the dispositions of the laws of the Kingdom allow, although they have not yet been ratified by Italy" for the conduct of naval commanders in relation to capture and prize.[1]

A rumour that the Ottoman Government had declared grain contraband of war (October 1911) led the Russian Government, in order to prevent any misunderstanding, to issue a note in which it stated that "basing itself on the Declaration of Paris of 1856 and on Articles XXIV. and XXXIII. of the Declaration of London," it considered that cargoes of corn were subject neither to arrest nor to confiscation when addressed from Russian ports on the Black Sea to Italian or other ports so long as such cargoes are not destined for Italian field forces or for Italian or official consignees. "Any attempt to arrest or confiscate the above-mentioned cargoes," the note went on, "the Russian Government will regard as a violation of the rights of Russia, and the Government gives warning of the heavy responsibility which the Turkish Government would incur in such circumstances."

The Turkish Government immediately replied by issuing a list of articles declared to be contraband of war, comprising grain, but it was coupled with a declaration stating that, although Turkey had not adhered to the Declaration of London she intended conforming thereto. Thus contraband, visit and search, and neutral shipping generally would be dealt with in accordance with the provisions of the Declaration.

Thus Russia and Turkey adopted the rules of the Declaration of London relating to contraband, and Italy applied it practically in full, although it has not yet been ratified by any Power,[2] and this has been done without any question whatsoever of the existence or non-existence of an international Prize Court. The obvious conclusion is, that the provisions of the Declaration of London are becoming an authoritative statement of international law adjusted to the needs of civilised mankind, and,

[1] See Barclay, *Turco-Italian War and its Problems* (London, 1912), p. 99. The terms of the Italian Decree (with references to the Declaration of London, which I have added in brackets),

relating to the Exercise of the Right of Capture and of Prize in Time of War, are as follow:

By a Royal Decree, dated October 13, there were approved the following instructions in conformity with the Declaration of Paris of April 16, 1856, which belligerent States are under the obligation to observe, and with the principles laid down in The Hague Convention of October 18, 1907, as well as in the Declaration of London of February 26, 1909, which the Royal Government desires should be equally observed in so far as the dispositions of the laws of the Kingdom allow, although they have not yet been ratified by Italy, and which are to regulate the conduct of naval commanders in operations relating to capture and prize during the war:

I. Turkey having taken no action to show that she intends to abstain from the capture and making prize of Italian merchant ships, but having been the first to make prize of Italian ships, the capture and making prize of Turkish merchant vessels and of their cargoes, being enemy's property, is hereby authorised, with the exception of fishing boats and small coasting vessels.

II. National or neutral merchant ships under any flag will be captured, according to the dispositions of the following paragraphs, if they:

(*a*) Try to violate the blockade.

(*b*) Carry contraband of war.

(*c*) Give assistance to the enemy.

(*d*) Forcibly resist visit.

III. The blockade must be effective, that is, maintained by a force sufficient to prevent access to the blockaded ports and coast.

Violation of the blockade consists in an attempt to penetrate within the blockaded zone or to leave it during the period established by the declaration of blockade.

The capture of ships attempting to violate the blockade cannot take place outside the sphere of action of the ships charged with maintaining it.

IV. If the vessel making for a blockaded place is in ignorance of the existence of the blockade, which has been declared after her departure from the last port of call, notification of the blockade shall be given her and an entry to that effect made in the ship's log by an officer of one of the blockading vessels. (See Declaration of London, Article XVI.)

V. Vessels that under stress of necessity are obliged to touch at a blockaded port will be allowed to enter, after giving proof that they are compelled by *force majeure*, and to leave again, provided that they do not take in or discharge cargo there. (See Declaration of London, Article VII.)

If, however, the vessel is carrying articles of contraband of war it shall be arranged that these shall be deposited on board one of the blockading ships.

Neutral warships shall always be allowed to pass freely through the blockading line. (See Declaration of London, Article VI.)

VI. Contraband of war are: cannons, guns, carbines, revolvers, pistols, sabres, and all sorts of portable firearms; munitions of war, military implements of all kinds, and in general everything which, without manipulation, can serve directly for land or sea armament.

Such articles are subject to capture or confiscation if it is proved that their destination is the enemy's territory or naval forces, whether transported directly or by means of transhipment or of transit overland. (See Declaration of London, Article XXX.)

VII. If the articles of contraband constitute a small part of the cargo, the naval commanders can, if they think good, receive such articles in deposit, making an entry to this effect in the ship's log or, failing this, issuing a declaration to that effect, and then permit the vessel freely to continue her voyage.

VIII. Ships are liable to capture for assisting the enemy which

(*a*) directly take part in the operations of war in the enemy's favour;

(*b*) are chartered by the Government of the enemy State, or placed under the orders or inspection of one of his agents, or employed to carry troops or news in the enemy's interest. (See Declaration of London, Article XLVI.)

IX. Ships or goods captured or taken as prize will be conducted to the nearest port of the Kingdom, or, when that is not feasible, to a neutral port to be put at the disposition of the naval authorities or of the consular authorities, as the case may be, together with a detailed report of the capture or prize accompanied by the relative documents.

If the observance of this prescription might compromise the safety of the capturing vessel or the success of the warlike operations in which she is engaged, the commander shall have the faculty of destroying the prize, after having provided for the safety of the persons, papers, and documents on board and of everything else which may be material to arriving at a decision as to the legality of the prize. (See Declaration of London, Article XLIX.)

X. Members of the enemy's armed forces found on board a neutral vessel may be made prisoners of war, even if the vessel—either in the absence of the conditions laid down in paragraph 8, or in circumstances where the captain's good faith is manifest—be not liable to capture. (See Declaration of London, Article XLVII.)

XI. To fulfil the above conditions, the visiting of merchant vessels shall take place with the exception of the cases treated in the following Articles) every time there is sufficient motive for believing that the exercise of this right may result in the confiscation of the ship or cargo in accordance with the practice authorised in such cases by the regulations in force, and by international maritime usages.

XII. Ships escorted by a neutral war vessel are exempt from visit; naval commanders will limit themselves in such cases to demanding, when they think fit, from the commander of the convoying ship a written declaration regarding the nature and cargo of the convoys.

[2] Barclay, *Turco-Italian War* (1912), p. 99.

whether ratified or not, and whether an international Prize Court ever comes into being or not, they seem destined to become, like the Declaration of Paris, part of the public law of Europe; in spite of the fact that in the course of the present war the belligerent Governments have adopted and modified and eventually torn it up altogether; but the present war, fortunately for mankind, is no criterion of the ultimate scope of human wisdom.

If there is reason to believe that the confidence of the commander of the convoying vessel has been abused, these suspicions shall be communicated to him in order that he may proceed alone to make the necessary verifications, issuing a written report on the subject. (See Declaration of London, Article LXII.)

XIII. Naval commanders must abstain from the right of visit, capture, and prize, and from any act of hostility in the ports or territorial waters of neutrals.

The Decree relating to the Composition of the Prize Commission was as follows:

By another Royal Decree of the same date, a Prize Commission, presided over by a magistrate with the rank of President of the Court of Appeal, or of President of Section of the Court of Cassation, has been composed as follows:

Ordinary members—

(*a*) An admiral, member of the Superior Naval Council.
(*b*) A legal adviser of the Foreign Office.
(*c*) A Councillor of State.
(*d*) The Director-General of the Mercantile Marine.
(*e*) The Inspector of the body of Harbour Authorities.
(*f*) A Councillor of the Court of Appeal.

There shall be four assessors, of whom two shall be chosen from among the admirals and two from categories (*c*) and (*f*).

A magistrate of the Public Prosecutor's Office, of not lower rank than a Public Prosecutor (*procuratore del Re*), shall act as Royal Commissioner. He has no deliberative voice, and is charged with stating the case in the Government's name, and with giving his conclusions. He shall not be present at the voting.

The Commission shall be assisted by a secretary, who has no vote.

Five members of the Commission form a quorum; in the case of an equality of votes, the President, or whoever is fulfilling his functions, shall have the casting vote.

The parties shall have the right to present written memoranda, which are to be given to the President of the Commission.

The representatives of foreign Powers accredited to the Royal Government can address to the Royal Commissioner such observations as they shall think advisable in the interests of their nationals.

The sentences of the Prize Court shall be supported by a statement of the grounds on which they are based. The only appeal from these sentences, which are otherwise not subject to appeal, challenge, or revocation, is to the Supreme Court of Cassation according to the letter and practice established by Article III. of the law of March 31, 1877.

The decisions of the Prize Commission shall be communicated to the Ministers of Foreign Affairs and Marine within eight days of their pronouncement.

IV. WORK ACHIEVED IN 1907 AND 1908-9

(*a*) Law of Naval War in General.

The work of The Hague Conference of 1907 and that of London in 1908–9 in reference to the codification of the Law of Naval War is not inconsiderable, as is shown by the following headings:

Convention of 1907:

- Status of enemy merchant ships at outbreak of hostilities (No. VI.).
- Conversion of merchant ships into warships (No. VII.).
- Laying of automatic submarine contact mines (No. VIII.).
- Bombardment by naval forces in time of war (No. IX.).
- Certain restrictions on the right of capture in naval war (No. XI.).
- Rights and duties of neutral Powers in naval war (No. XIII.).

Declaration of London:

- Blockade (Articles I. to XXI.).
- Contraband of war (Articles XXII to LXIV.).
- Unneutral service (Articles XLV. to XLVII.).
- Destruction of neutral prizes (Articles LXVIII. to LIV.).
- Transfer to a neutral flag (Articles LV. and LVI.).
- Enemy character (Articles LVI. to LX.).
- Convoy (Articles LXI. and LXII.).
- Resistance to search (Article LXIII.).
- Compensation (Article LXIV.).

In addition to this work of codification of the Law of Naval War there is the exhaustive Convention adopting the principles of the Geneva Convention to Naval War and that establishing an international Prize Court.

(*b*) Law of War on Land in General.

In addition to the revision work of the Conference of 1907, conventions were adopted relating to—

The commencement of hostilities (No. III.);
and, the rights and duties of neutral Powers and persons in war on land (No. V.).

(*c*) Restriction of *Casus Belli*.

The suppression of one of the possible occasions for war in the limitation of the employment of force for the recovery of contract debts was one of the most remarkable achievements of the Conference of 1907. The Convention in question is the first instance of international self-denial of recourse to war for causes which have too often sullied the relations between powerful and weaker States.

It arose out of the "Drago theory,"[1] called after Dr. Luis F. Drago, who propounded it when Minister of Foreign Affairs of the Argentine Republic. The theory is that it is necessary as a principle, for the common safety of the South American Republics, just as the Monroe Doctrine is necessary as a principle for the preservation of the territorial *status quo* throughout the American continent against European aggression, that the collection of pecuniary claims of citizens of any country against the Government of any South American Republic shall not be effected by the employment of armed force.[1]

[1] See *Problems*, p. 116.

The Convention in principle gives effect to Dr. Drago's theory, excluding the employment of armed force, but it qualifies the prohibition by allowing its use in cases in which the debtor State refuses or neglects to reply to an offer of arbitration, or where, after having accepted the offer, it renders the settlement of the *compromis* impossible, or, after arbitration, fails to comply with the award.

Under another Article it is agreed that the arbitration "shall be subject to the procedure laid down in Part IV., Chapter III., of The Hague Convention for the Pacific Settlement of International Disputes." To this provision the United States made the following reservation, dictated by the special rights and attitude of the American Senate in the international treaties:[2]

[2] See *Problems*, pp. 17 *et seq.*

"That the United States approves this Convention with the understanding that recourse to the permanent Court for the settlement of the differences referred to in the said Convention can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute."

(*d*) Revision Work of the Conference of 1907.

The revision work accomplished by the Conference of 1907 included all the three Conventions adopted in 1899.

As regards that respecting the Laws and Customs of War on Land, the alterations, without altering the law, were confined to giving greater precision to the Articles. One important Article, that relating to railway plant (Article LIV.), was transferred, with some amplification, to Article XIX. of a new Convention, con-

cerning the rights and duties of neutral powers and persons in case of war on land.

The Convention for adapting the Geneva Convention to naval warfare was modified to bring it into harmony with the new Geneva Convention adopted in the interval between the first and second Conferences, and that relating to arbitration was completed by the addition of exhaustive rules for the guidance of Commissions of Enquiry.

Lastly, at the instance of the American delegates, a Code of thirty-three Articles was drawn up for the institution, alongside the existing Court, of a standing Court of Arbitral Justice to sit every year and hear cases as a regular Court of Justice. On this subject the following *Vœu* was agreed to:

"The Conference recommends the signatory Powers to adopt the annexed draft Convention for the creation of a Court of Arbitral Justice, and to bring it into force as soon as an agreement shall have been reached respecting the selection of the judges and the constitution of the Court."

(*e*) Declarations of War

In connection with declarations of war, the Conference did not follow the suggestion of the Institute of International Law that hostilities should only begin after expiry of a delay sufficient to ensure that the rule of previous and unequivocal notice should not be eluded, but on the contrary provided that the notification may even be given by telegraph to the neutral Powers. If simultaneous with the striking of the first blow, it would still be within the limits of the Article.

Two wars have been declared since the signing of the Convention. The Turco-Italian war was preceded by an ultimatum which demanded a satisfactory reply within twenty-four hours.[1]

In the case of the first Balkan war, Bulgaria, Servia, and Greece presented identical threatening notes to the Sublime Porte on October 13, 1912. On the 15th, reciprocal notice was given that diplomatic relations were broken off, and on October 17 the allies declared, without an ultimatum, that from that date they regarded themselves as in a state of war with Turkey.

In both cases, it is seen, hostilities did not begin till after expiry of a delay sufficient to ensure previous and unequivocal notice, as suggested by the Institute of International Law, though The Hague Conference did not venture as far as this.

The second Balkan war seems not to have been preceded by any deliberate notification in the nature of a declaration of war. In the present war, declarations were issued in all cases before the opening of hostilities.[2]

[1] See Barclay, *Turco-Italian War and its Problems* (London, 1912), pp. 21, 111.

[2] See Barclay, *Law and Usage of War* (London, 1914), pp. 44 *et seq.*

(*f*) Neutral Rights and Duties in War on Land.

Convention V., respecting the rights and duties of neutral Powers in war on land, starts with a declaration that neutral

territory is inviolable. This clause was inserted as an afterthought at the suggestion of Belgium, a fact which gave importance to what might otherwise seem self-evident. Later events showed how well her apprehensions were justified.

The second Article forbids belligerents to send troops or convoys, either of ammunitions of war or of provisions, through the territory of a neutral State. It emanated from the British representatives, which is also significant; the passage of British troops through Portuguese territory during the South African war was a precedent which it was highly desirable to extinguish.

The other Articles of this Convention are practically, within its scope, a codification of the existing law.

(*g*) Neutral Rights and Duties in Naval War.

Another Convention (No. XIII.) relates to the rights and duties of neutral Powers in naval war. Articles II., III., X., XII., XIII., though they merely declare the law as it is recognised in practice, put an end to any theoretical doubt as to the absoluteness of the neutral character of territorial waters. Meanwhile, the extent seawards of territorial waters continues to differ according to the private legislation of different Powers.[1]

[1] See *Problems*, pp. 109 *et seq*

Other Articles give effect to the prevalent practice respecting the number of warships belonging to a belligerent which may be simultaneously in a neutral port or roadstead, the twenty-four hours' rule where warships of both belligerents are simultaneously in such a neutral port or roadstead, and the visiting by a belligerent warship of a neutral port or roadstead for repairs, revictualling, and coaling. These Articles make a distinction between roadsteads and territorial waters which it is desirable that the next Hague Conference should make perfectly clear.

An important provision which may become a precedent for the centralising of much further information is provided by Article XXVII., under which the Contracting Powers undertake to inform each other by means of a communication to the Government of the Netherlands of all statutes, orders, and other enactments regulating in their respective countries the position of belligerent warships in their ports and waters. The Government of the Netherlands undertakes, under this Article, to forward immediately all such information to the other Contracting Powers. It is desirable that at the next Hague Conference the Bureau International at The Hague be substituted for the Netherlands Government in a matter for which the Bureau is obviously the proper and natural medium of inter-communication.

In other respects the Convention practically adopted the principles agreed to by Great Britain and the United States in the "Alabama" Treaty of Washington of 1871.[2] It will no doubt be overhauled at the next Conference as the Conventions of 1899 were overhauled at the second Conference.

[2] The suggestion made by the present writer in *Problems*, p. 85, as to interpreting "due diligence," was followed, and a provision he proposed was inserted covering the possibility that a State might not have at its disposal the means of ensuring the observance of the strict rules laid down by the Treaty of Washington. It is now only bound to employ the means at its disposal. Before the meeting of the next Conference, it is to be hoped that Powers which in 1907 had no repressive legislation applicable to the prevention of violations of neutrality such as that possessed by Great Britain and the United States will have taken steps to provide the necessary legislation.

(*h*) Belligerent Rights and Duties in Naval War.

No less than five Conventions, as we have seen, deal with other matters connected with maritime war.

No. VI., relating to the *status of enemy merchant ships at the outbreak of hostilities*, confirms the existing practice, while giving precision and uniformity to it, of ensuring protection against the surprises of war to merchant ships engaged in undertakings entered into in good faith before the outbreak of hostilities.[1]

No. VII. deals with the *conversion of merchant ships into warships*. The Conference, however, was unable to settle the most controversial point connected with the subject, namely, whether the conversion of a merchant ship into a warship can legally take place on the high seas. The subject was again brought up at the London Conference of 1908–9, but the parties were again unable to find common ground of agreement.[2]

At The Hague several projects were brought forward. The British contention was that neutrals would be in ignorance of the character assumed on the high sea by a ship which had left one of their roadsteads as a merchant ship: neutral merchant vessels might refuse, with the possible result of much subsequent friction, to be visited and searched by this recently converted ship. Furthermore, such a conversion was an act of the sovereign Power, which should only be exercised within the jurisdiction of that sovereign Power. The Dutch delegates endorsed these objections. It was also pointed out that such arbitrary conversion might tend indirectly to re-establish privateering. On the other hand, France, Russia, and Germany contended that such conversion, being admittedly the act of a sovereign Power, could be exercised on the high seas in accordance with the clearly established principle that a State had full authority and sovereignty on the high seas over all ships flying its flag. The other objection, they thought, could be met by inserting provisions regulating the publication of such conversion, and the continuance and complete assimilation of the converted ships to warships so long as the war lasted. Italy proposed a compromise by suggesting that such conversion should only be possible for merchant ships which had left the roadsteads before the opening of hostilities.

In presence of these conflicting views the Conference confined itself to providing homogeneous regulations applicable on and after the conversion of merchant ships into warships.

The fear has frequently been expressed that "auxiliary cruisers of the navy" and "volunteer fleets," under which names merchant vessels have recently been rigged up as war vessels, amounted to a practice little short of a revival of privateering. The Convention authorises such conversion. There must, however, under the Convention, be complete assimilation to the

[1] Article I. of this Convention adopted the present writer's suggestion that when a merchant ship of one of the belligerent Powers is at the commencement of the hostilities in an enemy port, it should be furnished with a *laissez passer*, translated "passport" in the official translation, to allow it to proceed direct to its destination.

[2] *Problems*, p. 164.

official navy in all respects appertaining to command and outward signs, and, provided the terms of the Convention are complied with, there seems to be nothing in International Law, at the present moment, to forbid conversion on the high sea. Though the preamble to the Convention states, that as the Contracting Powers were "unable to come to an agreement on the question whether the conversion of a merchant ship into a warship may take place upon the high seas, it is understood that the question of the place where such conversion is affected remains outside the scope of this agreement," this leaves each Power subject only to the rule against privateering in the Declaration of Paris[1] and the terms of the Convention of 1907.

No. VIII. deals with *automatic submarine contact mines.* The preamble states that the "existing position of affairs makes it impossible to forbid the employment of automatic contact mines."[2]

The German representatives proposed to prohibit them altogether for a period of five years, and the British representatives to determine strictly the local limits within which they might be laid.

Meanwhile, the Convention forbids the laying of unanchored automatic contact mines, unless they are so constructed as to become harmless one hour at most after those who have laid them have lost control over them; and the laying of anchored automatic contact mines which do not become harmless as soon as they are loose from their moorings.

It is also forbidden to lay automatic contact mines off the enemies' coast or ports for the sole purpose of intercepting commercial navigation. The Convention enjoins notification by belligerents of danger zones, but qualifies this by adding, "as soon as military exigencies permit." In the case of neutral Powers which lay automatic contact mines, however, the neutral Government must give notice in advance of the places where such mines have been laid.

These rules were drawn up with expert advice, and the contracting parties undertook to convert the material of their mines, not conforming to the above prescriptions, and bring it into harmony with them.

On behalf of Great Britain, Sir Ernest Satow, however, made the following weighty official statement with reference to them:

"Having voted for the Mines Convention, which the Conference has just accepted, the British Delegation desires to declare that it cannot regard this arrangement as furnishing a final solution of the question, but only as marking a stage in international legislation on the subject. It does not consider that adequate account has been taken in the Convention of the right of neutrals to protection, nor of humanitarian sentiments which cannot be neglected; it has done all that is possible to bring the Conference to share its views, but its efforts in this direction have remained without result. The high seas, Gentlemen, are a great international highway. If in the present state of international law and custom belligerents are permitted to fight their battles

[1] See *Problems*, p. 291.

[2] "In the present state of affairs," says M. Streit's report, "there could be no question of completely forbidding the use (*interdire tout usage*) of automatic submarine contact mines; and we had to be content with limiting the use of them, so that this weapon, which appears to be indispensable for purposes of defence or of being aimed at the enemy's forces, should carry with it the least possible danger to peaceful navigation."—Protocol, Misc. No. 4 (1908), p. 53.

there, it is none the less incumbent on them to do nothing which might, long after their departure from a particular place, render this highway dangerous to neutrals who have an equal right to use it. We declare without hesitation that the right of the neutral to security of navigation of the high seas ought to take precedence of the transitory right of the belligerent to employ these seas as the scene of the operations of war. This Convention, however, as it has been adopted, imposes on the belligerent no restriction as to the placing of anchored mines which consequently may be laid wherever the belligerent chooses: in his own waters for self-defence, in the waters of the enemy as a means of attack, or, lastly, on the high seas, so that neutral navigation will inevitably run great risks in time of naval war and may be exposed to many a disaster. We have already on several occasions insisted on the danger of a situation of this kind. We have endeavoured to show what would be the effect produced by the loss of a great liner belonging to a neutral Power. We have not failed to produce every argument in favour of limiting the field of action of these mines, while we called special attention to the advantages which the civilised world would gain from this restriction, as it would diminish to a certain extent the causes of armed conflicts. It appeared to us that by accepting the proposal made by us at the beginning of the discussion dangers would have been obviated which in every maritime war of the future will threaten to disturb friendly relations between neutrals and belligerents. But since the Conference has not shared our views, it remains for us to declare in the most formal manner that these dangers exist, and that the certainty that they will make themselves felt in the future is due to the incomplete character of the present Convention. As, in our opinion, this constitutes only a partial and insufficient solution of the problem, it cannot, as has already been pointed out, be regarded as a complete exposition of international law on the subject. Therefore the legitimacy of a given act cannot be presumed for the mere reason that the Convention has not forbidden it. That is a principle which we desired to affirm, and which could never be ignored by any State, whatever its power."[1]

[1] Parl. Papers, Misc. No. 4 (1908), p. 54; la deux. Confér., t. i. p. 281.

This statement was followed by another by the German chief delegate, Baron Marschall von Bieberstein:

"In view of the Declaration just made by His Excellency the delegate of Great Britain, I wish to repeat what I have already said in the Committee.

"A belligerent who lays mines assumes a very heavy responsibility towards neutrals and peaceful shipping. On that point we are all agreed. No one will resort to such means unless for military reasons of an absolutely urgent character. But military acts are not governed solely by principles of international law. There are other factors: conscience, good sense, and the sentiment of duty imposed by principles of humanity will be the surest guides for the conduct of sailors, and will constitute the most effective guarantee against abuses. The officers of the German Navy, I emphatically affirm (*je le dis à voix haute*), will always fulfil in the strictest manner the duties which emanate from the unwritten law of humanity and civilisation. I have no need to tell you that I recognise entirely the importance of the codification of rules to be followed in war. But it would be well not to issue rules the strict observance of which might be rendered impossible by the force of things. It is of the first importance that the international maritime law which we desire to create should only contain clauses the execution of which is possible from a military point of view, even in exceptional circumstances. Otherwise, the respect for law will be lessened and its authority undermined. Also it would seem to us to be preferable to preserve at present a certain reserve, in the expectation that, seven years hence, it will be easier to find a solution which will be acceptable to the whole world.

"As to sentiments of humanity and civilisation, I cannot admit that there is any Government or country which has a higher sense of them than that which I have the honour to represent."[2]

[2] Parl. Papers, Misc. No. 4 (1908), p. 55; la deux. Confér., t. i. pp. 280–1.

These Declarations foreshadowed an attempt to deal with the subject more effectively at the third Conference.

As regards the relation of the Convention to the existing law of nations, its preamble states that the High Contracting Parties

are inspired by the principle of the freedom of the sea as the common highway of nations, but the second part of the preamble seems to admit the possibility of belligerents infringing this principle, inasmuch as it states that its object is to ensure *as far as possible* to peaceful navigation the security to which it is entitled. This is not at all a satisfactory result, and, on the whole, the practice existing before the adoption of the Convention in question might have given rise to combined action by powerful neutral Powers against the infringement of the freedom of the high sea which the Convention seems now to authorise.

No. IX. is an amplification of the *Vœu* adopted by the first Peace Conference "expressing the wish that the proposal to settle the question of the bombardment of forts, towns, and villages by naval forces may be referred to a subsequent Conference for consideration." The Convention forbids the bombardment by naval forces of undefended towns, villages, dwellings, or buildings, except in case the naval force has requisitioned the provisions necessary for their immediate wants and this requisition has not been complied with, a most dangerous licence not granted to commanders of land forces.[1] Nor does the prohibition prevent the bombarding of military works or depots of arms or workshops or plant which can be utilised for the needs of a hostile fleet or army.

Lastly, No. XI. deals with *postal correspondence, the exemption from capture of coasting vessels, and the position of crews of enemy merchant ships captured by a belligerent.*

As regards *postal correspondence* a very important innovation was adopted. Under the Convention all correspondence, whether of neutrals or belligerents, official or private, which may be found on board a neutral or enemy ship is inviolable, and has to be forwarded by the captor with the least possible delay, except in the case of correspondence destined for or proceeding from a blockaded port.

As regards small *coasting and fishing vessels and vessels entrusted with religious, scientific, and philanthropic missions*, the existing practice is confirmed.

Under this Convention another radical change is made in the existing practice of regarding the officers and crews of captured enemy merchant ships without distinction of nationality as prisoners of war.

As regards those who are nationals of an enemy State, they are no longer, under the Convention, to be regarded as prisoners of war provided they undertake in writing not to enter during the continuance of the hostilities "any service relating to the operations of war."

This is far from an assimilation of practice in naval war to that in war on land. It was properly observed that the existing practice involved an unnecessary hardship for civilians who

[1] Compare Article XXV. of the Regulations for Warfare on Land. The term used, "refuses to comply with the requisition," comprises the possibility of inability to do so. The qualification that the requisition shall be proportioned to the resources of the place leaves the decision as to this to the commander of the naval force l

had taken no part in hostilities, and that there was no good reason for distinguishing between them and those accompanying land forces in a non-combatant capacity and who were never made prisoners of war.[1]

This applies *a fortiori* to subjects of neutral Powers, as to whom, in fact, Article X. provides simply that, on capture, such of its crew as are nationals of a neutral State are not made prisoners of war. It further provides, however, that the same rule shall only apply in the case of captain and officers who are nationals of a neutral State, if they give a formal promise in writing not to serve on an enemy ship while the war lasts, which is an interference with innocent neutral persons, however much worse the existing practice may be, for which it is difficult to find justifying agreements.

[1] In the present *War of Nations* potential combatants have been assimilated to combatants. This is one of the modifications in the law of war current experience is likely to have made for good.

(*i*) Projectiles from Aircraft

Lastly, a Declaration was adopted "relating to the prohibition against discharging projectiles and explosives from balloons," the previous Declaration adopted at the Conference of 1899 having expired. No substantial change was made in re-adopting it, except that instead of its duration being limited to five years, the new Declaration was made operative till the close of the next Conference.

It was ratified by the United States, Belgium, Bolivia, China, Great Britain, Haiti, Norway, the Netherlands, Portugal, Salvador, Siam, and Switzerland.[2]

On the other hand, the Declaration was ignored without protest by belligerents in both the Turco-Italian and Balkan wars, in which air navigation was freely used for the dropping of shells; a precedent the full effects and horrors of which have now been seen when belligerents are equipped with air vessels which can even give each other battle and carry warfare into belligerent districts far removed from the areas of actual hostilities.[3]

[2] As regards the Declaration of 1899, Great Britain was the only Power which did not ratify it.

[3] The following memorial, signed by a large number of eminent Englishmen in the beginning of 1912, sets out the views of those who deplore the addition of aviation to the already numerous methods of adding devastation to the horrors of war:

"We, the undersigned, protest against the use of aerial vessels in War. We appeal to all Governments to foster by every means in their power an international understanding which shall preserve the world from what will add a new hideousness to the present hideousness of Warfare.

"Without universal agreement, no single Power can stay its hand (*i.e.* can retard its own action): every day of ingenuity and every pound of money spent diminishes the chance of such agreement.

"The occasion is unique. The civilised world is now alive to the ghastliness and economic waste of War; The Hague Conference is an established fact. For the first time, in the face of a new development of the arts of fighting, Nations possess both the conscience and the machinery necessary to check that development effectually.

"All Civilisation protests its desire for Peace and Goodwill; protests its wish to reduce the already grievous burden of armaments. Unless its protestations be those of a hopeless hypocrite, it cannot stand and watch the conquest of the air, that most glorious of men's mechanical achievements, callously turned to the usages of destruction; it cannot idly acquiesce in a new departure that must heavily increase this burden of armaments.

"There are many who believe that aerial warfare, by reason of its sheer horror, must prove a blessing in disguise, frightening men from War. To those we say: Civilisation does not sanction the ravages of a new and arrestable form of disease, in order that men through horror may be the more eager to join hands in stamping out all forms of sickness. And further: You underrate the fortitude and adaptability of human nature, which has long proved that it can endure all forms of terror.

"There are some who insist that the art of flying will never reach full development without the stimulus of War. To such we suggest that the story of mankind does not leave us without hope that where there is demand, even when only for the purposes of peaceful life, there will also be supply. If the art of flying be delayed a few years by the resolve of men to use that art for mutual help and not for mutual destruction, the world will be no loser.

"There are many who argue that because men fight on earth and water they may just as well fight in the air. To these we answer: There has never yet been a moment when it was practically possible to ban the War machines of earth or water. There is a moment when it is practically possible to ban those of the air. *That moment is now*—before the use of these machines is proved; before great vested interests have formed.

"Governments are Trustees not only of the present but of the future of mankind. Fortune has placed this moment in the hands of the Governments of to-day. We pray of them to use it wisely."

V. RESTRICTION OF ARMAMENTS

At the conclusion of the present war, it is not improbable that one of the guarantees against the renewal of a catastrophe like that which is devastating the civilised world will take the form of a proportionate restriction of the power to break the peace. This may involve the question of the restriction of armaments.

"The maintenance of universal peace and a possible reduction of the excessive armaments which weigh upon all nations, represent, in the present condition of affairs all over the world, the ideal towards which the efforts of all Governments should be directed," were the opening words of the Note which the Russian Minister of Foreign Affairs, Count Mouravieff, on August 12, 1898, handed to the diplomatic representatives of the different Powers.

The answers to his suggestion of holding an International Conference of the Powers to deal with the question of "excessive armaments" were unanimously favourable.

A further Note, dated January 11, 1899, submitting the programme proposed, gave more precision to this item, which thereupon took the following form: "An understanding not to increase for a fixed period the present effectives of the armed military and naval forces, and at the same time not to increase the budgets pertaining thereto; and a preliminary examination of the means by which even a reduction might be effected in future in the forces and budgets above mentioned."

At the Conference the Russian Government, further developing the proposal, submitted the following details:

"1. Establishment of an international understanding for a term of five years, stipulating non-increase of the present figures of the peace effective of the troops kept up for home use.

"2. Fixation, in case of this understanding being arrived at, and, if possible, of the figures of the peace effective of all the Powers, excepting colonial troops.

"3. Maintenance for a like term of five years of the amount of the military budgets at present in force."

When the subject came on for discussion in the Commission appointed to deal with it, the German military delegate stated his view that "the question of effectives could not be discussed by itself, as there were many others to which it was in some

measure subordinated, such, for instance, as the length of service, the number of cadres, whether existing in peace or made ready for war, the amount of training received by reserves, the situation of the country itself, its railway system, and the number and position of its fortresses. In a modern army all these questions went together, and national defence included them all." In Germany, moreover, the military system "did not provide for fixed numbers annually, but increased the numbers each year."[1] After many expressions of regret at finding no method of giving effect to the proposal, the Commission recorded its opinion that "a further examination of the question by the Powers would prove a great benefit to humanity."

[1] See *Problems*, p. 124, notes.

The growth of armaments, after the Conference, continued at a still greater speed than ever, and, if their limitation was desirable in 1899, it was far more so in 1907.

And yet, with the broadening of the policy of promoting international friendships and the removing of causes of international distrust, the strengthening of armaments ought proportionately to have lost its chief stimulus.

An agreement of the kind entered into between Chile and Argentina in 1902[2] is more feasible as among States whose navies are small and of comparatively recent origin, than as among States whose navies are composed of vessels of many and widely different ages. The breaking-up or sale of obsolete warships is a diminution of the paper effective of a navy, and their purchase by another State a paper increase of theirs. Even comparatively slight differences in the ages of ships may obviously make great differences in their fighting value.

[2] See *Problems*, pp. 128 *et seq.*

On the other hand, as regards military power, with general conscription a national army corresponds numerically to the numerical proportion of males in the national population. It is difficult to say what could be the basis of the proportion to be established between countries of widely different areas and populations. Nor does any scheme seem to have been devised for the establishment of a proportion between the levies of men and the mechanical apparatus of war.

The feeling of the different military Powers of Europe in 1907 was strongly against dividing on the subject, and by arrangement with the British delegates, in a speech by Sir Edward Fry, the principal British delegate, the subject was given a full-dress burial. In the course of his speech, Sir Edward Fry intimated that His Majesty's Government, in view of the growing expenditure in armaments, were ready to communicate annually to the Powers, who might be prepared to do likewise, their proposed programme of naval construction and the estimates therefor with the object of facilitating an exchange of views between different Governments in relation to the reductions which could by common agreement be effected. His Majesty's Government

believed that in this manner an understanding could be arrived at as to the annual expenditure on naval construction. The resolution submitted by Sir Edward Fry confirmed the *Vœu* adopted by the Conference of 1899 in regard to the limitation of military expenditure and, inasmuch as military expenditure had considerably increased in almost every country since that time, the Conference declared that it was highly desirable to resume the serious examination of the question. The United States seconded and France supported the resolution. Communications in a similar sense were handed in by the Spanish, Argentine, and Chilian delegations, and in conclusion the President read a speech in which he associated himself and the Russian Government with the British proposal.

The resolution was declared to have been carried by acclamation and no vote was taken. The writer was present at the sitting, and he does not think he is betraying any State secret in saying that, mild as the resolution was, it was not considered advisable to submit it to a vote which might have resulted in significant abstentions.

The question is obviously not one which can be effectively dealt with by a general Conference of the Powers. There is no reason, however, why certain Powers should not make arrangements which would eliminate the need of further raising their respective effectives against each other, and in the negotiations for peace it is possible that financial considerations will force Governments to adopt some contractual restrictions.

VI. BEQUESTS OF THE SECOND TO THE THIRD CONFERENCE

THE second Conference bequeathed a number of subjects for the consideration of its successor.

Among these are the three following direct recommendations:

The Conference recommends to the Signatory Powers the adoption of the annexed draft Convention for the establishment of a Court of Arbitral Justice, and its being put in force as soon as an agreement shall have been arrived at on the choice of the judges and the constitution of the Court. (*Vœu* No. 1.)

The Conference expresses the *Vœu* that the drawing up of regulations regarding the laws and customs of maritime warfare shall figure in the programme of the coming Conference, and that, in any case, the Powers apply, as far as possible, to maritime warfare the principles of the Convention relating to the laws and customs of war on land. (*Vœu* No. 4.)

The Conference held that it was desirable that the Committee (*i.e.* the Preparatory Committee), moreover, be instructed to propose a system of organisation and precedure for the Conference itself.

A fourth may also be said to have been bequeathed, in a more or less affirmative form, in the following Declaration:

The Conference, in conformity with the spirit of agreement and of reciprocal concessions which is the very spirit of its deliberations, has agreed upon the following declaration which, while reserving to each of the Powers represented the independent effect of its votes, enables them to affirm the principles which they consider as unanimously recognised.

The Conference is unanimous—

1. In recognising the principle of obligatory arbitration.
2. In declaring that certain differences, and, in particular, those relating to the interpretation and application of international treaty stipulations, are susceptible of being submitted to obligatory arbitration without any restriction.

Lastly, it unanimously proclaims that, if it has not yet been possible to conclude a Convention in that sense, the divergences of opinion which have been manifested have not gone beyond the limits of a judicial controversy, and all the Powers of the world by working together for four months have not only come into closer contact and learned to understand each other, but have shown, during their long collaboration, a very high sense of the common welfare of humanity.

In a less affirmative way further questions connected with floating mines were bequeathed to the next Conference in the preamble to the Convention on the subject which states that—

Having regard to the principle of the freedom of sea routes, open to all nations;

Considering that, if in the present state of things the use of submarine mines with automatic contact cannot be forbidden, it is important to limit and regulate their use, in order to restrict the rigours of war and to give, as far as possible, to peaceful navigation the security it has the right to claim, in spite of the existence of a war;

Pending the possibility of settling the matter in a way affording the interests involved every desirable guarantee;

Have resolved to conclude a Convention to this effect, and have appointed as their Plenipotentiaries: etc.

Lastly, the second Hague Conference made the following declaration in the Final Act with reference to the preparation of the work of the third:

. . . the Conference recommends to the Powers the holding of a third Peace Conference which might take place after a period similar to that which elapsed between the first and second Conference, at a date to be fixed by common consent among the Powers, and it calls their attention to the necessity of preparing the work of the third Conference a sufficiently long time beforehand, so that its deliberations be carried on with the authority and rapidity which are indispensable.

To attain this object, the Conference holds that it is desirable that about two years before the probable holding thereof, a preparatory committee be appointed by the Governments to receive the different proposals to be submitted to the Conference and examine the matters susceptible of international settlement and to prepare a programme which the Governments shall decide upon soon enough for it to be seriously studied in each country.

If the recommendation with reference to the third Conference had been followed, it ought to have met in 1915, and the International Preparatory Commission ought to have been appointed in 1913. As it would have been a waste of time for the International Commission to meet until Governments had formulated their views on the subjects they wished to be dealt with, a number of States appointed preliminary national committees. The French Government appointed, moreover, as standing secretary of the Committee, M. Jarousse de Sillac, one of the officials of the French Foreign Office, who has charge of the subject as a part of his official business. The Austro-Hungarian and Dutch Governments appointed special national committees, the latter under the Chairmanship of M. de Beaufort, an ex-Minister of Foreign Affairs.

As regards the British Government, Mr. Acland, Under-Secretary for Foreign Affairs, on February 24, 1914, in answer to Mr. Barnes, stated that a communication had been received from the Government of the United States, making suggestions for an International Committee; that in connection with the second Peace Conference an Interdepartmental Committee had been set up, under the chairmanship of the then Attorney-General, to advise as to the programme to be discussed and the views to be put forward on behalf of His Majesty's Government, and that similar machinery might be employed with regard to the next Conference "at the proper time."

Meanwhile, the Institute of International Law took up the subject some years ago and has adopted a carefully prepared report setting out a list of subjects presenting *la plus grande utilité* for discussion at the next Conference. This list selects the following as being at once the most important and the most "susceptible of early international settlement":

I. Drafting of regulations concerning the laws and customs of maritime warfare. (*Vœu* No. 4 of the 1907 Conference.)
II. Establishment of a Court of Arbitral Justice. (*Vœu* No. 1 of the 1907 Conference.)
III. Drafting of a General Treaty of Arbitration. (Declaration of principle included in the Final Act of the 1907 Conference.)
IV. Drafting of regulations concerning a permanent organisation of the Peace Conference (in compliance with the Declaration in the Final Act of the 1907 Conference.)
V. Extension of the Convention of October 18, 1907, relating to the commencement of hostilities to international coercive methods in general.
VI. Definition of and regulations concerning territorial waters.
VII. The effects of war on personal rights of private citizens of the belligerent States.
VIII. Airships in time of war.
IX. Lighthouses in time of war.
X. The value of arbitral decisions as regards national jurisdiction and authorities.
XI. Diplomatic and consular immunities.
XII. The jurisdiction of courts in regard to foreign States.

A question which hitherto has been brought under the notice of the Conferences by the United States is the immunity of private property in maritime warfare. The British Government intimated its readiness to discuss this subject, and it will certainly be included among the matters submitted to the "Preliminary Committee." In Chapter VIII. of *Problems* I have examined the matter very fully. See also p. 200 respecting the proposal of a "national indemnity." At pp. 172 *et seq.* and pp. 176 *et seq.* of the same work will be found alternative draft proposals putting the principle of immunity into the form of an agreement (*a*) by assimilation of private property at sea to private property on land, or (*b*) by assimilation of belligerent to neutral private property at sea.

I venture to suggest several other questions which ought to be considered by the "Preparatory Committee" in the final adjustment of the matters to be submitted for settlement:

XIII. The consolidation of the law affecting the navigation of rivers flowing through different countries, a matter which at present is the subject of different treaties of restricted application.

XIV. The occupation of unoccupied territory and the questions which arise out of it through spheres of interest and the *hinterland* doctrine, matters at present regulated only over certain restricted territories.

XV. The obligatory fixation of belligerent areas and notification by belligerents to neutral Powers of such areas or of area exempt from hostilities.

XVI. Rules as to the rupture of diplomatic relations; and, last but not least,

XVII. The effect and interpretation of most-favoured-nation clauses.

From among these I shall pick out in the following chapters those which seem ripe for more immediate consideration.

VII. CODIFICATION OF THE LAW OF MARITIME WARFARE

AMONG the appendices[1] will be found an exhaustive draught code adopted at the Oxford Meeting of the Institute of International Law in 1913. This code is the result of several years of work by a committee of the Institute under the guidance of Professor Fauchille of Paris, its convener. A glance at the *Annuaires* of the Institute for 1912 and 1913 will afford some idea of the labour expended upon it, and of the special knowledge brought by practically all the leading authorities of Europe and America to the elaboration of its final form. It will form an excellent basis for the consideration of the National Committees and, serving to focus their work round a common draft, will be of inestimable value as such for the international "Preparatory Committee."

[1] See p. 262.

VIII. PROPOSED COURT OF ARBITRAL JUSTICE

THE project adopted at the instance of the United States delegates was annexed to *Vœu* No. 1, and will be found among the *actes* of the second Conference.

Mr. James Brown Scott, who was largely responsible for the submission and successful termination of the discussion on the subject, has explained its character and bearing as follows: [1]

It will be remembered that Article XVI. of the Convention of 1899 provided that: "In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognised by the Signatory Powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle."

That this solemn declaration of a broad and beneficent principle might not remain a dead letter, the Conference undertook to create a Court in which international conflicts might be arbitrated. Article XX. provides as follows: "With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the Signatory Powers undertake to organise a Permanent Court of Arbitration, accessible at all times and operating unless otherwise stipulated by the parties, in accordance with the Rules of Procedure inserted in the present Convention."

The framers of the Convention had in mind the arbitration of international conflicts, and as it is incident to arbitration that the parties litigant chose their own judges, Article XVII. defined and provided that:

"The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

"It may embrace any dispute or only disputes of a certain category."

If Articles XVI., XVII., and XX. be compared and analysed, it is evident that questions of a judicial nature were deemed peculiarly susceptible of arbitration, and by the establishment of a Permanent Court of Arbitration it was hoped that these questions would be frequently arbitrated and decided on the basis of respect for law. So far it would seem that the foundations were laid for a Court in the juristic sense of the word, but arbiters, the choice of the parties litigant, instead of judges were to be appointed.

Inasmuch, however, as the Permanent Court was declared by Article XXI. to be "competent for all arbitration cases," it is manifest that the framers of the Convention contemplated that questions other than those of a judicial nature might be submitted to the Permanent Court. There was thus created a single institution which might decide purely legal questions on the basis of respect for law and broader questions of a non-judicial nature—either or both of which were to be decided by judges, chosen by the parties in controversy.

In modern States judicial questions are decided by judges in courts of justice, and the judges are not the direct appointees of the parties. In matters of purely private interest which may be compromised, judges of the parties' choice are as much in place as they would be out of place in a court of justice.

[1] See The Hague Peace Conferences of 1899 and 1907 (by James Brown Scott, Baltimore, 1909), pp. 423 *et seq.*

The difference between judicial and non-judicial questions and the procedure applicable to each was thus outlined by His Excellency M. Bourgeois:

"If there are not at present any judges at The Hague it is because the Conference of 1899, taking into consideration the whole field open to arbitration, intended to leave to the parties the duty of choosing their judges, which choice is essential in all cases of peculiar gravity. We should not like to see the Court created in 1899 lose its character as a real Court of Arbitration entirely, and we intend to preserve this freedom of choice of the judges in all cases where no other rule is provided.

"In controversies of a political nature especially, we think that this will always be the real rule of arbitration, and that no nation, big or small, will consent to go before a Court of Arbitration unless it takes an active part in the appointment of the members composing it.

"But is the case the same in questions of a purely legal nature? Can the same uneasiness and distrust appear here? And does not every one realise that a real Court, composed of real jurisconsults, may be considered as the most competent organ for deciding controversies of this character and for rendering decisions on pure questions of law?

"In our opinion, therefore, the old system of 1899 or the new system of a truly Permanent Court may be preferred, according to the nature of the case. At all events there is no intention whatever of making the new system compulsory. The choice between the Tribunal of 1899 and the Court of 1907 will be optional, and experience will show the advantages or disadvantages of the two systems."

The object of the framers of the project of a Court of Arbitral Justice is to institute a Court of Justice for questions of a judicial nature, in accordance with the view of M. Bourgeois, without attempting in any way to subject questions of a non-judicial character to discussion and decision of a court of law. The purpose of the proposed Court is to carry the work of 1899 a step further by establishing a Court of Arbitral Justice for the judicial decision of questions of a judicial nature.

Article XX., above quoted, looked to a Permanent Court, but it is common knowledge that the Court is not permanent, for it exists only for the special case and has to be created anew for each case submitted. There is indeed a permanent list from which the judges can be and indeed must be chosen for the particular case. The framers of the Convention meant the Court to be accessible at all times to the suitors, and it was established in order to facilitate recourse to arbitration. This excellent end was frustrated by faulty machinery, because an unconstituted Court cannot be said to be accessible at any time, much less at all times. As M. Asser, a founder and friend and arbiter of the Court, said, "It is difficult, time-consuming, and expensive to set it in motion."

Mr. Choate said:

. . . "I am inclined to think that one of the causes which has prevented a more frequent resort of nations to The Hague Tribunal, especially in cases of ordinary or minor importance, has been the expensiveness of a case brought here, and it should be one element of reform that the expense of the Court itself, including the salaries of the judges, shall be borne at common expense of all the Signatory Powers, so as to furnish to the suitors a Court at least free of expense to them, as is the case with suitors of all nations in their National Courts.

"The fact that there was nothing permanent or continuous or connected in the sessions of the Court, or in the adjudication of the cases submitted to it, has been an obvious source of weakness and want of prestige in the Tribunal. Each trial it had before it had been wholly independent of every other, and its occasional utterances, widely distant in point of time and disconnected in subject-matter, have not gone far towards constituting a consistent body of international law or of valuable contributions to international law, which ought to emanate from an international Tribunal representing the power and might of all the nations. In fact it has thus far been a Court only in name, a framework for the selection of referees for each particular case, never consisting of the same judges. It has done great good so far as it has been permitted to work at all, but our effort should be to try and make it a medium of vastly greater and constantly increasing benefit to the nations and to mankind at large.

"Let us then seek to develop out of it a Permanent Court which shall hold regular and continuous sessions, which shall consist of the same judges, which shall pay due heed to its own decisions, which shall speak with the authority of the united voice of the nations, and gradually build up a system of international law, definite and precise, which shall command the approval and regulate the conduct of the nations. By such a step in advance we shall justify the confidence which has been placed in us, and shall make the work of this second Conference worthy of comparison with that of the Conference of 1899."[1]

Mr. Knox, Secretary of State in the United States Government, in 1910 sent a diplomatic note to the Powers suggesting that the International Prize Court, proposed to be established by the second Hague Conference, should be transformed into the proposed Court of Arbitral Justice, that is to say, that the scheme of the latter should be merged in the former.

This subject will probably involve a reconsideration of the existing system as a whole. In *Problems*[2] will be found a draft form of submission to arbitration of cases of minor interest, which meets one of the difficulties, viz., that of the expensiveness of the present mode of operation.

[1] *La Dieuxième Conférence Internationale de la Paix*, vol. ii. (First Commission, First Sub-Commission, 9th Session), August 1, 1907. The Court, outlined by the project, is meant to realise the views of the framers of 1899; it is a Court in essence and in fact, composed of actual and prospective judges, and it is permanent because in existence and in session.

[2] See *Problems*, p. 149. Compare as to cost of present procedure, *ibid.* p. 21.

IX. ON A GENERAL TREATY OF ARBITRATION

THE Hague Conference of 1907 expressed itself unanimously in declaring that "*certain differences*, and in particular those relating to the interpretation and application of international treaty stipulations, are susceptible of being submitted to obligatory arbitration without any restriction."[1]

[1] Final Act. See pp. 79 *et seq.*

It follows from this statement that the Conference was unanimously agreed that other matters besides the interpretation and application of treaty stipulations are fit matters to be included in a general compulsory treaty of arbitration.

The Conference, moreover, unanimously agreed to recognise the principle of such a general treaty.

Thus, the third Conference will have inherited two fundamental principles from the second Conference on which to work.

The Institute of International Law has taken up this subject also, and the present writer, as convener of the committee dealing with it, has submitted several statements on the subject which are at present under consideration preparatory to being submitted at a plenary meeting of the Institute.

Following out the above principles, the present writer has drawn up two model treaties, one of which has already appeared in *Problems*,[2] and the other of which (translation) is as follows:

[2] See p. 145 of that volume.

The H.C.P., etc.

Whereas in the Final Act of the Peace Conference of 1907, the said Conference unanimously recognised the principle of compulsory arbitration, and declared that "certain differences, and, in particular, those relating to the interpretation and application of international treaty stipulations, are susceptible of being submitted to obligatory arbitration without any restriction whatsoever."

And whereas in Article XXXVIII. of the Convention of October 18, 1907, for the pacific settlement of international disputes, this unanimous resolution is reiterated in the following form, viz., that

"In questions of a legal nature and, in the first place, in questions relating to the interpretation or application of international Conventions, arbitration is recognised by the Contracting Powers to be the most efficacious and at the same time the most equitable means of settling disputes which have not been settled through diplomatic channels";

And that

"It is therefore desirable that in disputes relating to the aforesaid questions, the Contracting Powers should, on the occasion arising, have recourse to arbitration so far as circumstances permit."

Declaring once more that such is their feeling and actuated by the desire to give greater practical effect to the above-stated principle,

Have, by mutual agreement, drawn up the following Convention :

1. The High Contracting Parties undertake to submit to the arbitration of The Hague Court, disputes

(*a*) Arising out of the interpretation of clauses contained in all the agreements at present existing between them ;

(*b*) Arising out of the application of the said agreements either by reason of failure to carry out or of the imperfect carrying out of their clauses ;

(*c*) Which are of a judicial character, that is to say, susceptible of being settled by pecuniary indemnities.

2. The following Powers :

Undertake, in furtherance of the provisions of the preceding Article, to submit to the arbitration of The Hague Court all disputes which shall not have been settled through diplomatic channels relating to

Fisheries ;
Submarine cables ;
Sanitary questions ;
Frontier incidents ;
Collisions between public ships and foreign private ships, etc.

3. The High Contracting Parties may, by simple notification to the International Bureau created by Article XXII. of the Convention of July 29, 1899, make by agreement between any two or more of these such additions as they may deem fit to the preceding Article.

4. Any matter belonging to any of the above categories is arbitrable,

(*a*) When two Contracting Powers are directly involved ;

(*b*) When one of the Parties is a Signatory State and the other an individual or individuals belonging to the Signatory State which proposes arbitration.

5. In case of a dispute which falls within the jurisdiction of the national judicial authorities in accordance with the territorial laws of the State concerned, the Contracting Parties are entitled to refrain from submitting the dispute to arbitration under this Convention until the competent national jurisdiction shall have given its final decision.[1]

When a dispute is of this nature, the defendant State shall not be entitled to raise any question of limitation of action, so long as the matter remains in the diplomatic channel, and, in that case, the limitation of action shall run only from the time when the private party shall have received written notice that the Government representing such party has desisted from the affair pending application to the national jurisdiction.

6. The undertakings contained in the present treaty do not imply any obligation to submit to The Hague Court disputes of a local character which can best be settled by arbitration on the spot. Nevertheless, a complete copy of all acts and minutes of any arbitration held elsewhere than at The Hague shall be deposited in the archives of the said Court.

7. The appointment of the arbitrator or arbitrators and the settling of all details of procedure shall be effected in accordance with Articles XLV. and LII. of the Convention of October 18, 1907, above mentioned.

8. In case of any dispute which a Signatory Power shall not consider susceptible of being submitted to arbitration, the Signatory Powers undertake, so far as possible, to give effect to Article VIII. of the Convention of October 18, 1907, by each party to a dispute appointing a mediator.

9. Any Signatory Power may withdraw from the present Treaty by giving to the above-mentioned International Bureau at The Hague notification to that effect one year in advance.

10. The International Bureau at The Hague is entrusted with the immediate transmission to the Signatory Powers of all communications which may be sent to it on the subject-matters of the present Treaty.

In faith whereof, etc. etc.

[1] Based on the Italo-Dutch Treaty of November 30, 1909, and the Franco-Danish Treaty of August 9, 1911.

It will have been observed that down to Article IV. this draft

is in strict accordance with the unanimously adopted principles enunciated above. The principle of compulsory arbitration is its starting-point. It then sets out the matters which the Conference unanimously agreed to regard as arbitrable without any restriction, and contains a further blank clause for the inclusion of other matters in accordance with the unanimous authority of the Conference. All this is a mere formulation of what has already been decided.

Articles IV., V., and VI. of the above draft deal with matters which have not yet been considered at the Conferences, but which subsequent experience has shown to be of such importance that they involve the very existence and utility of international arbitration itself.

Article IV. deals with a matter which gives rise to divergent views. Under the terms of the Anglo-French Treaty of Arbitration :

"Differences of a judicial order between the two Contracting Parties"

which the H.C.P. have not been able to settle diplomatically are to be submitted to The Hague Court.

This formula, simple as it seems, bears different interpretations. When the two Contracting States have a difference which involves no private interests, that the matter is arbitrable is not disputed. When only private interests are at stake, there is also no question that the matter belongs to the jurisdiction of the ordinary Courts. But there are mixed cases in which the interest of a State and the interest of a foreign individual claimant are in conflict. In such a case, even where State and individual are treated without distinction as to jurisdiction or procedure, there always remains the fact that the State within its own territory may be, at any rate, suspected of having a preponderating position. But where the State is not assimilated to a private defendant, where it cannot be sued like an ordinary individual, where a special jurisdiction is reserved for it, where, for instance, in case of a collision between a French warship and a private ship in the waters of the State to which the private ship belongs, the State to which the warship belongs cannot on the ground of exterritoriality be sued before the natural jurisdiction, *i.e.* that of the place of the collision, is not such a matter essentially a case in which the national jurisdiction ought to be supplemented, in case of need, by an independent jurisdiction? Let us furthermore assume that according to the internal legislation of this State, the only competent jurisdiction is a Council of State, whose members are public officials dependent on and holding their office at the discretion of that State, is not such a reference to arbitration doubly desirable?

Now, the French Admiralty holds that the above-cited Treaty applies only to litigation where a State interest is directly

opposed to another State interest. If this interpretation of the Treaty were correct, it would practically reduce to nil the number of arbitrable cases, and nearly all the cases which have hitherto been decided by The Hague Court, as there have been private interests on the one side and State interests on the other, have been decided in excess of the Court's jurisdiction.

Thus, the Orinoco Steamship matter between the United States and Venezuela, and the Canevaro matter between Italy and Peru, and, outside The Hague Court, the case of the "Sergent Malamine" between Great Britain and France, the Alsop matter between Chile and the United States, the Cerruti matter between Italy and Columbia, all hinged even solely on claims by private individuals.

In none of these cases was there a standing Arbitration Treaty between the Parties. The cases submitted to The Hague Court were so submitted as to the natural and competent jurisdiction, although on one side there were only private interests at stake.

The construction by the French Government of the Anglo-French form amounts, therefore, to a curtailment instead of an increase of the admitted scope of arbitration. Article IV. (*b*) in the proposed draft would prevent Governments from thus circumscribing the application of the Treaties in a sense so contrary to their very object.

In a recent case the French Government held that the fact of the claim having been transmitted by the claimant's Government without that Government espousing the claim, deprived it of the character of a State claim, and that it therefore lacked an element necessary to render the case arbitrable. On such contentions, also, it is necessary to place a check. It is true that arbitration is admitted to apply only to cases "which shall not have been settled through the diplomatic channel." But a State which conveys a claim on behalf of its citizens to another State usually takes care in its diplomatic action to confine itself to presenting the facts and to receiving and conveying to the interested parties the answers received. There are obvious reasons for this independent attitude. When the negotiations conducted in this manner lead to no result and when there are still facts to establish or points of law to decide, the claimants' Government by proposing arbitration renders the case arbitrable.

Another very grave question is whether a matter on which there has been a national decision which has the authority of *res judicata* can nevertheless remain arbitrable, that is to say, whether by submitting a case to the national jurisdiction of the State the private party waives the right to the arbitration of The Hague Court.

It has been seen that in the Franco-Danish Treaty above mentioned, in a certain number of cases for which, according to territorial law, the judicial authority is competent, the case can

only be submitted to arbitration after the national jurisdiction has finally disposed of it.

Connected with this question is another which has some importance, although it is to be hoped that no State with a sense of its own dignity would avail itself of it, that is the question of technical prescription, I mean limitation of action under the national law, while the claim remains in the hands of diplomacy. As soon as the Government which has presented the claim has provisionally or otherwise withdrawn from the matter and the party thus represented shall have been notified thereof, there is no reason, however, why the ordinary national prescription should not begin to run. And in case, by reason of prescription dating from after the withdrawal from it of the State in question, the matter is exhausted, it should not be possible to revive it before The Hague Court; otherwise the private party could on its own initiative cancel the stage of the national jurisdiction which it is desired to preserve.

X. PERMANENT ORGANISATION OF THE HAGUE PEACE CONFERENCES

THE second Conference suggested that the International Preparatory Committee should propose a system of organisation and procedure for the third Conference.

One of the drafts I made to be included in *Problems*, but left out on further consideration, dealt with the whole subject of the organisation of the Conferences. The late Mr. W. T. Stead thought it would form a good basis for discussion, and printed it in French in his daily *Bulletin* of the Conference.

The explanatory note published in the *Bulletin* was as follows:

"I had prepared the preamble and Articles forming this draft project with a view to their figuring among the other drafts set out in my book.[1] They did not do so, because I thought it premature to provide against the repetition of errors which, although possible, had not yet occurred.

"The principal flaw in the present Conference has been the absence of preparation. It is useless to insist upon a point which is continually manifesting itself or to try to find out who or what is to be blamed for it. Such a Conference was certainly without precedent, and had it been possible to manage otherwise, there were forty-four States to point it out beforehand.

"The question is therefore to find a way of preventing the recurrence of errors which have already been committed; to provide for the preparatory study of all questions which it is possible to settle by a general regulation; make a distinction between questions of a general character and those in which only a certain number of Powers are interested; to reduce as far as possible the work of the Commissions and to provide a method of re-examining all questions which have not been satisfactorily solved by the Conference, without waiting for a future Conference to solve them; lastly, to place the calling of new Conferences under the joint responsibility of the principal States, and in the meantime facilitate inter-communication between the States with a view to settling beforehand as many questions as possible, only reserving for general Conferences points upon which they remain in disagreement."

[1] *Problems of International Practice and Diplomacy*, London, 1907.

The project of constitution for the work of The Hague Court and Conference, which I have now amended to adapt it to the situation arising out of the Conference of 1907, is as follows:

The plenipotentiaries of the following H.C.P. . . . who signed at The Hague . . . 1907, the Conventions and Declarations established by the second Hague Peace Conference,

Considering that it is desirable to try to profit by experience acquired and facilitate, as far as possible, the convocation, preparation, and preliminary work of future Conferences;

Whereas it is necessary to make a distinction, and in fact a distinction has

been made, between questions of a general character in which all the States are interested and those which are fundamental only to the greater Powers;

Whereas Article XXII. of the Convention for the Peaceful Settlement of International Differences of 1899 (Article XLIII. of the revised Convention of 1907) created an *International Bureau* at The Hague which serves as Registrar and Record Office for The Hague International Arbitration Court, and Article XXVIII. of the said Convention (Article XLIX. of the revised Convention of 1907) has constituted a *Permanent Administrative Council*, composed of the diplomatic representatives of the Signatory Powers accredited to The Hague and presided over by the Dutch Minister of Foreign Affairs;

Whereas these two bodies are in existence and have fulfilled their office to the satisfaction of their respective principals, and whereas it is desirable to centralise the work of The Hague as far as possible;

Whereas it is expedient to constitute a body of international jurisconsults to whom the Powers can have recourse upon all judicial matters as well as to assist the *International Bureau* and the *Administrative Council* as legal experts, and to act as a Consultative Committee able to take charge, *inter alia*, of the preparation of the work of future Hague Conferences, and within the scope of its capacities deal with such matters as the said *International Bureau* shall be instructed by the Consultative Council to require of it;

With a view to dealing with above objects, the purposes and duties of the several bodies above referred to shall be as follows:—

1. The *International Bureau* shall discharge the following duties outside its ordinary functions as registrar of the International Arbitration Court:

(*a*) To preserve and classify all the documents relating to the Conferences;

(*b*) To keep the H.C.P. informed of all questions concerning the work of the Conferences;

(*c*) To constitute, improve, and catalogue a library of International Law and accessory knowledge;[1]

(*d*) To draw up an annual report of its work for submission to the *Administrative Council*;

(*e*) To serve as intermediary for all communications between or among the Signatory Powers;

(*f*) To transmit immediately all communications received to the *Administrative Council*; and

(*g*) To be, in general terms, under the direction of the *Bureau* of the *Administrative Council*, and to perform all secretarial and executive duties committed to it by such *Bureau*.

2. The *Administrative Council* remains composed of the diplomatic representatives of Contracting Powers at The Hague, who shall every year elect two Vice-Presidents, not eligible for more than two successive years of office. The President and the two Vice-Presidents shall form the *Bureau* of the *Administrative Council*.

Outside its functions in connection with the administration of the International Arbitration Court, it shall discharge the following duties: Assemble on the convocation by its *Bureau* to discuss the matters submitted in the agenda drawn up by the said *Bureau*, or such matters suggested by any member of the Council of which due notice shall have been given; to take note of all communications received from the *International Bureau*; give the necessary instructions to the said *International Bureau* and receive the annual report of that *Bureau*. Minutes of the meeting of the Council shall be kept, but they shall only be binding upon the Signatories thereof. Two copies shall be given to each member.

3. Apart from the *Administrative Council* and *International Bureau*, a Consultative Committee shall be created and composed as follows:

(*a*) Four members selected by the Institute of International Law;

(*b*) Four members selected by the *Administrative Council*; and

(*c*) Four members selected by the Committee as thus far constituted.

One of each category shall retire on expiry of every two years, and not be re-eligible for two years after five years' tenure of office.

The *Consultative Committee* shall be entrusted with the preparation of the work of future Conferences and with the examination of all questions which have been submitted but not solved at previous Conferences. It shall also examine all matters submitted to it by the *Administrative Council* or by any member of the said Council individually.

[1] Owing to the generosity of Mr. Andrew Carnegie the library is now constituted. The secretary-general of the Institute of International Law, Prof. Albéric Rolin, is its acting librarian.

The *International Bureau* shall be entrusted with the secretaryship of the Committee.

The *Bureau* of the *Administrative Council* may, if the Committee so desires, invite specialists in military, maritime, or other matters to give the Committee the benefit of their expert advice.

It shall fix the remuneration of the members of the Committee and of the said occasional specialists.

4. The *Bureau* of the *Administrative Council* may call a general meeting of the *Consultative Committee* to discuss any questions it may deem desirable to submit to it, or recommend States to send representatives to any Conference to be held at The Hague or elsewhere to deliberate upon any matters it may deem of sufficient importance.

XI. REGULATIONS CONCERNING TERRITORIAL WATERS

THIS subject is still under discussion by the Institute of International Law. The present writer, who drafted the rules adopted by the Institute in 1894, is convener of a new committee for their revision. He has drawn up a series of revised rules which are at present under consideration and with which his co-convener, Professor Oppenheim of Cambridge, is substantially in agreement.[1]

[1] See *Annuaires de l'Institut* for 1892, 1894, and 1912 and 1913.

XII. EFFECTS OF WAR ON THE PERSONAL RIGHTS OF PRIVATE CITIZENS OF BELLIGERENT STATES

THERE is a doubt as to the meaning of Article XXIII. (*h*) of the Regulations concerning the laws and customs of war on land. This Article forms part of a section of the Regulations entitled "Of hostilities," and of a chapter thereof entitled "Means of injuring the enemy, sieges, and bombardments." Article XXII. provides that "belligerents have not an unlimited right as to the choice of means of injuring the enemy," and Article XXIII. that "in addition to prohibitions provided by special Conventions it is in particular forbidden . . ." Then follow a number of Articles which come within the scope of the orders of a commanding officer, except (*e*) which forbids the employment "of arms, projectiles, or material calculated to cause unnecessary suffering," which is a matter beyond his discretion, as well perhaps as (*a*) which forbids the employment of "poison or poisoned weapons," and, lastly, *de déclarer éteints, suspendus, ou non-recevables en justice, les droits et actions des nationaux de la partie adverse* (to declare extinguished, suspended, or inadmissible in law the rights and claims of enemy subjects).

The original wording of this paragraph, as inserted, at the instance of the German delegates, was *de déclarer éteintes, suspendues ou non-recevables les réclamations privées de ressortissants de la partie adverse* (to declare extinguished, suspended, or inadmissible private claims by enemy subjects). The words *en justice* were afterwards inserted after *non-recevables* at the instance of Colonel Borel, Swiss delegate, to make the sense clearer, but they have completely altered the sense of the restriction. The Russian technical delegate, Major-General Yermolow, proposed to except from the application of this principle *des créances ou des titres appartenant à l'ennemi, et qui pourraient servir à continuer les hostilités* (claims for payment or securities belonging to the enemy and which might serve to prolong hostilities). The proposal was negatived.

The question has arisen of whether this provision in the Regulations is a declaration by the Powers that trading with the enemy may go on unaffected by the existence of war, which is

contrary to British practice, or it merely applies to the relations between the commander of forces and the enemy population among whom they are quartered.

The original wording tallies with the latter construction. It seemed to be intended merely to prevent the application of the old rule to bargains with the private persons among the enemy population of the occupied area. There was no question of its applying to claims *en justice*, i.e. before the Courts. Nor does it appear in the records of the proceedings on what authority the words *réclamations privées* were converted into *droits et actions*. In any case the sense of the Article was transformed, and, as it now reads in the Regulations, it has the appearance of a provision of general application improperly inserted among a number of specific injunctions to commanders in the field. The best that can be done is simply to restore the original wording.[1] On the conclusion of the war we shall, moreover, be able to profit by the experience of the States which have been in actual occupation of enemy territory.

[1] The subject was brought to the notice of the Institute by Professor Oppenheim, in conjunction with a well-reasoned letter from Sir F. A. Campbell of the Foreign Office, with which my views are substantially in agreement.

XIII. AIRCRAFT IN TIME OF WAR AND PEACE

THE questions arising out of the use of air-vessels in time of war are of the greatest gravity.

At The Hague Conference of 1899 the following Declaration was adopted:

"The Contracting Powers agree to prohibit, for a term of five years, the discharge of projectiles and explosives from balloons, or by other new methods of a similar nature.

"The present Declaration is only binding on the Contracting Powers in case of war between two or more of them.

"It shall cease to be binding from the time when in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power."

Only Great Britain did not ratify it, but on expiry of five years it ceased to be operative. At the Conference of 1907, however, it was renewed till the close of the next Conference. This time Great Britain, alone (except the United States) of great Powers, had ratified it.

At the Aviation Congress in Paris in 1912, the present writer submitted a resolution in the terms of The Hague Declaration. That it was rejected unanimously was ominous of the prevailing tendency.

Meanwhile, the law of the air had occupied the attention of most Governments. Under a British Act (The Aerial Navigation Act, June 2, 1911), "for the purpose of protecting the public against danger," the Government was empowered to forbid aerial navigation over certain areas according to circumstances or limit it to certain kinds of aircraft. These very wide powers are obviously capable of extension on such a scale that they practically assert absolute sovereignty over the superincumbent air of the whole of British territory.

Questions affecting international law may arise out of this claim. Have foreign air-vessels a right of innocent passage through the air, as they have through territorial waters, of any State? It has been suggested that, following the analogy of the sea, no State is entitled to claim sovereignty over a greater height than cannon-range can command; that to assert a claim over the air *ad cœlum* over any country is as exaggerated as the now obsolete claims over whole seas which were eventually

whittled down to a margin of sea following the trend of the adjacent coast. The Institute of International Law, which dealt with the subject at its Ghent Meeting in 1906, declared the air free, subject only to such rights as necessities of self-preservation required. This suggests an analogy to the relationship between the high sea and territorial waters.[1]

Mr. H. Brougham Leech has made the following apt observations on this subject:[2]

"There is, from one important point of view, a marked difference between the open sea and supra-territorial air. An ordinary vessel on the open sea cannot damage persons or property on land; a war-vessel cannot do any such damage save of deliberate intention. Furthermore, collision at sea cannot be productive of any injury to those on land. But any vessel traversing the supra-territorial air can do much mischief to those on the earth beneath; any accident to such vessels may result in serious injury; any accidents arising either from collision, storm, or the failure of the machinery, are not only more liable to happen, but they may involve injuries to third parties, from the risk of inflicting which, sea-going vessels are entirely free. It is urged, therefore, that the analogy between the open sea and the supra-territorial atmosphere breaks down, and that the State is entitled to protection against these unusual dangers."

Following this analogy French jurists distinguish between freedom of the air and freedom of passage through the air, contending that all that progress and development of aviation require is freedom of passage, and that there is no need to lay down any principle as to freedom of the air in connection with aviation. This, however, is a mere theoretical distinction, and facts are settling the matter for themselves. As it is only when comparatively near to earth that the flight of aviators can be controlled by any police, no effort has yet been made by States to impose regulations exceeding what it is practically within their power to enforce. Very serious matters will, nevertheless, some day arise out of aviation in time of peace.[3]

At its Madrid Meeting in April 1911 the Institute of International Law adopted the following regulations relating to aviation in time of peace and in time of war:

I.—IN TIME OF PEACE.

1. A distinction is made between public air-vessels and private air-vessels.

2. Every air-vessel shall have a nationality, and one nationality only, which shall be that of the country in which it is registered.

Air-vessels shall carry some special sign by which they can be distinguished.

The State in which registration is applied for shall determine to whom and under what conditions it may be granted, suspended, or withdrawn. Nevertheless, the State which registers an air-vessel belonging to a foreign owner shall have no right to assert protection over such air-vessel on the territory of the State to which its owner belongs against the operation of laws under which the said State may have forbidden its subjects to register air-vessels abroad.

3. International aerial navigation is free, subject to the right of subjacent States, to take certain fixed precautions with a view to assuring their own safety and that of the persons and property of inhabitants on their territory.

[1] See *Annuaires de l'Institut*, 1892 and 1894.

[2] See *Fortnightly Review*, August 1912.

[3] The more important of them have been summed up by Mr. Brougham Leech in the already-quoted article in the *Fortnightly Review* of August 1912, as follows:

"(*a*) Provision for the collection of customs dues, and for the prevention of smuggling;

"(*b*) The prevention of the landing of persons suffering from infectious diseases;

"(*c*) The prevention of the importation of undesirable aliens;

"(*d*) The prevention of the inspection from airships, and of the sketching and photographing of forts, arsenals, and Government stores and buildings;

"(*e*) Special precautions against the operation of anarchists, bomb-throwers, and other such persons, and the prevention of the importation of dynamite and other dangerous explosives."

II.—IN TIME OF WAR.

1. War in the air is permitted, provided it does not expose the persons or property of non-combatant populations to greater dangers than those to which they are exposed in war on land or war on the sea.

The gratuitous suffering inflicted by aircraft in the present war belongs to the more general question of intimidation as a method of warfare. The experience of the present war has shown that intimidation, far from hastening the conclusion of the war, has only hardened the populations it was sought to intimidate in their resistance and hatred.

XIV. LIGHTHOUSES IN TIME OF WAR

DURING recent wars the greatest inconvenience has been suffered, and life and property endangered, from the extinguishing of lights along belligerent coasts. The present writer has suggested[1] that, at any rate, the Red Sea ought to be neutralised as a part of a highway of which the Suez Canal, already neutralised, forms the other part.

The question, however, is of importance wherever the exigencies of war lead belligerents to deprive navigation of the guidance of lights in the neighbourhood of coasts on which its safety depends.

A Commission of the Institute of International Law is at present dealing with the subject.

[1] *Turco-Italian War and Its Problems* (London, 1912), pp. 86, 97.

XV. CONSOLIDATION OF THE LAW AFFECTING THE NAVIGATION OF RIVERS FLOWING THROUGH DIFFERENT COUNTRIES

In 1878 the Institute of International Law began to occupy itself with the question of treating the river Congo as of international interest, and in 1883 one of the founders of the Institute, the late M. Moynier, brought forward the question in an exhaustive memoir,[1] which was followed by the adoption of the following resolution:

[1] See *Annuaire*, vol. vii. p. 250.

L'Institut de droit international exprime le vœu que le principe de la liberté de navigation, pour toutes les nations, soit appliqué au fleuve du Congo et à ses affluents, et que toutes les puissances s'entendent sur des mesures propres à prévenir les conflits entre nations civilisées dans l'Afrique équatoriale.

L'Institut charge son Bureau de transmettre ce vœu aux diverses puissances, en y joignant, mais seulement à titre d'information, le mémoire qui lui a été présenté par l'un de ses membres, M. Moynier, dans la séance du 4 septembre 1883.

The General Act of Berlin of February 26, 1885, dealing with the subject in connection with the river Congo, gave effect to this resolution.[2]

[2] See Articles X. and XI. of that Act, *Problems*, p. 75.

The Institute, considering that this was only a first step in the direction of a general *règlement* on the subject of "international" rivers, formed a committee to deal with it, of which the late Professor F. de Martens was appointed convener. The project drawn up by him in this capacity was discussed at the Heidelberg Meeting of the Institute in 1887, and resulted in the adoption of the following *projet de règlement organique*[3]:

[3] See *Annuaire*, vol. ix. pp. 182 *et seq.*

DISPOSITIONS GÉNÉRALES.

Article premier.—Les États riverains d'un fleuve navigable sont obligés, dans l'intérêt général, de régler d'un commun accord tout ce qui a rapport à la navigation de ce fleuve.

Article II.—Les affluents navigables des fleuves internationaux sont, à tous égards, soumis au même régime que les fleuves dont ils sont tributaires, conformément à l'accord établi entre les États riverains et au présent règlement.

Article III.—La navigation dans tout le parcours des fleuves internationaux, du point où chacun d'eux devient navigable jusqu'à la mer, est entièrement libre et ne peut, sous le rapport du commerce, être interdite à aucun pavillon.

La frontière des États séparés par le fleuve est marquée par le thalweg, c'est-à-dire par la ligne médiane du chenal.

Article IV.—Les sujets et les pavillons de toutes les nations sont traités, sous tous les rapports, sur le pied d'une parfaite égalité. Il ne sera fait aucune distinction entre les sujets des États riverains et ceux des États non riverains.

Article V.—Les droits de navigation prélevés sur les fleuves internationaux auront pour but exclusif de couvrir les frais des travaux d'amélioration de ces fleuves et ceux de l'entretien de la navigabilité en général.

Article VI.—En temps de guerre, la navigation sur les fleuves internationaux est libre pour les pavillons des nations neutres, sauf l'observation des restrictions imposées par la force des choses.

Article VII.—Tous les ouvrages et établissements créés dans l'intérêt de la navigation, notamment les bureaux de perception et leurs caisses, de même que le personnel attaché d'une manière permanente au service de ces établissements, sont placés sous la garantie de la neutralité permanente et, en conséquence, seront protégés et respectés par les États belligérants.

DISPOSITIONS SPÉCIALES.

Article VIII.—Tous les bâtiments à voiles ou à vapeur, sans distinction aucune de nationalité, sont autorisés à transporter des passagers et des marchandises, ou à pratiquer le remorquage entre tous les ports situés le long des fleuves internationaux.

Les bâtiments étrangers, soit maritimes, soit fluviaux, ne seront admis à l'exercice régulier du petit cabotage, c'est-à-dire au trafic exclusif et continu entre ports d'un même État riverain, qu'en vertu d'une concession spéciale de cet État.

Article IX.—Les navires et les marchandises transitant sur les fleuves internationaux, ne sont soumis à aucun droit de transit, quelle que soit leur provenance ou leur destination.

Article X.—La navigation des fleuves internationaux est libre des droits d'étape, d'échelle, de dépôt, de rompre charge ou de relâche forcée; aucun péage maritime ou fluvial ne peut être prélevé.

Article XI.—Il peut être prélevé des taxes ou droits ayant le caractère de rétribution pour l'usage effectif des établissements des ports, tels que grues, balances, quais et magasins.

Article XII.—Les droits de douane, d'octroi ou de consommation établis par les États riverains ne pourront en aucune manière entraver la libre navigation.

Article XIII.—Les taxes de port pour l'usage effectif des grues, balances, etc., ainsi que les droits de pilotage et ceux de phare, de fanal et de balisage, destinés à couvrir les dépenses techniques et administratives faites dans l'intérêt de la navigation, seront fixés par des tarifs publiés officiellement dans tous les ports des fleuves internationaux.

Article XIV.—Les tarifs susmentionnés seront élaborés par les commissions mixtes des États riverains.

Article XV.—Les tarifs ne comporteront aucun traitement différentiel.

Article XVI.—Les tarifs des taxes mentionnées à l'Article XIII. seront calculés sur les dépenses de construction et d'entretien des établissements locaux et d'après le tonnage des navires indiqué dans les papiers de bord.

Article XVII.—Les États riverains n'ont la faculté de prélever des droits de douane sur les marchandises transportées par les fleuves internationaux que si elles doivent être introduites dans le territoire de ces États.

Article XVIII.—Les navires ne peuvent décharger leur cargaison en tout ou en partie que dans les ports et autres lieux riverains pourvus d'un bureau de douane, sauf les cas de force majeure.

Article XIX.—Les navires en cours de voyage et munis de papiers réglementaires ne peuvent être arrêtés sous aucun prétexte par les autorités des douanes des États riverains, si les deux rives appartiennent à des États différents.

Article XX.—Les navires qui entrent dans la partie d'un fleuve international dont les deux rives appartiennent à un seul État sont obligés d'acquitter les droits de douane imposés par le tarif local aux marchandises importées dans le territoire de cet État.

Les marchandises de transit ne sont soumises qu'au plombage et à la surveillance spéciale des autorités douanières.

Article XXI.—Les États riverains arrêteront entre eux un ensemble de dispositions de police destinées à régler l'usage du fleuve dans l'intérêt spécial de la sécurité et de l'ordre publics.

Article XXII.—Des tribunaux spéciaux de navigation ou ceux de droit commun existant dans les États riverains connaîtront, en appel, des pénalités pour les infractions aux règlements de police établis sur la base d'une parfaite égalité pour tous les navires, sans distinction aucune de nationalité.

Article XXIII.—Des établissements quarantenaires sont fondés, par l'initiative des États riverains, aux embouchures des fleuves internationaux ; le contrôle sur les bâtiments est exercé tant à l'entrée qu'à la sortie.

Le contrôle sanitaire sur les navires, dans le cours de la navigation fluviale, est exercé sur la base des dispositions spéciales établies par les commissions riveraines.

Article XXIV.—Les travaux nécessaires pour garantir la navigabilité des fleuves internationaux sont entrepris, soit directement par les États, soit par l'initiative des commissions riveraines.

Article XXV.—Chaque État riverain est libre de prendre les mesures qu'il juge utiles pour entretenir et améliorer, à ses propres frais, la navigabilité des parties des fleuves internationaux soumises à sa souveraineté.

Article XXVI.—Dans tous les cas, il est interdit d'entreprendre des ouvrages qui peuvent modifier l'économie des eaux communes ou gêner la navigation, et contre lesquels ont protesté les autres États riverains.

Article XXVII.—Les autorités préposées à la navigation sur les fleuves internationaux sont :

1°. Les autorités des États riverains ;

2°. La commission riveraine, composée des délégués des États souverains.

Article XXVIII.—Chaque État riverain conserve ses droits souverains sur les parties des fleuves internationaux soumises à sa souveraineté, dans les limites établies par les stipulations de ce règlement et les traités ou conventions.

Article XXIX.—La commission riveraine prend ses décisions à la majorité des voix. En cas de partage, le président a voix prépondérante.

Toutefois, un vote ne lie pas les États représentés dans la minorité, si d'avance les délégués de ces États se sont formellement opposés à l'exécution de la mesure proposée.

Article XXX.—La commission riveraine est une autorité permanente sur les fleuves internationaux ; elle a les attributions suivantes :

1°. Elle désigne et fait exécuter les travaux indispensables pour améliorer et développer la navigabilité des fleuves ;

2°. Elle arrête et met en application les tarifs des droits de navigation et autres mentionnés dans les Articles XIII. à XVIII. ;

3°. Elle élabore les règlements de police fluviale ;

4°. Elle veille à l'entretien en bon état des ouvrages et à la stricte observation des dispositions de ce règlement international ;

5°. Elle nomme l'inspecteur en chef de la navigation sur le fleuve international.

Article XXXI.—L'inspecteur en chef fonctionne comme organe de la commission riveraine et sous la direction de celle-ci. Son autorité s'exerce indistinctement à l'égard de tous les pavillons.

Article XXXII.—L'inspecteur en chef veille à l'application de ce règlement international ainsi que du règlement spécial fluvial, et à la police de la navigation.

Article XXXIII.—Ce fonctionnaire a le droit de requérir directement, dans l'exercice de ses fonctions, l'assistance des postes militaires ou celle des autorités locales riveraines.

Article XXXIV.—Les inspecteurs locaux et les employés des bureaux de perception et de la quarantaine sont nommés par chaque État riverain ; mais ils exercent leurs attributions sous les ordres de l'inspecteur en chef et ont, comme lui, un caractère international.

Article XXXV.—Deux ou plusieurs États riverains peuvent se concerter pour la nomination d'un même délégué à la commission riveraine et d'un même inspecteur local, ou des employés des bureaux de perception, de la quarantaine, des juges des tribunaux, etc.

Article XXXVI.—L'inspecteur en chef prononce en première instance l'application des amendes encourues à raison des contraventions aux règlements de navigation et de police.

Article XXXVII.—Le recours contre ses jugements peut être porté soit devant un tribunal de navigation établi à cet effet, ou une cour locale spécialement désignée par chaque État riverain, soit devant la commission riveraine.

Article XXXVIII.—Chaque État riverain nomme les ingénieurs qui sont chargés de veiller à l'entretien et à l'amélioration de la section du fleuve soumise à sa souveraineté.

Article XXXIX.—Les puissances fixeront d'un commun accord le système de mesurage et de jaugeage pour l'évaluation de la capacité des bâtiments fluviaux et maritimes, avec force obligatoire pour toutes les nations.

Article XL.—En cas de guerre entre les États riverains, la propriété flottante sur un fleuve international, sans distinction entre la propriété neutre et la propriété ennemie, sera traitée suivant l'analogie de la protection de la propriété ennemie en cas de guerre sur terre.

XVI. OCCUPATION OF UNOCCUPIED TERRITORY, ANNEXATIONS, PROTECTORATES, SPHERES OF INTEREST AND INFLUENCE, HINTERLAND, INTERNATIONAL LEASES, ETC.

The question of occupation of African territory was dealt with in Chapter VI. of the General Act of the African Conference of Berlin in 1885. The chapter in question is headed as follows:

Declaration relating to the essential conditions to be fulfilled so that future occupations on the coast of the African Continent can be considered effective.

Articles XXXIV. and XXXV. forming the chapter read:

Article XXXIV.—Any Power which shall henceforth take possession of a territory on the coast of the African Continent situate outside its present possessions, or which, having no such possessions, should come to acquire any, and also the Power which shall assume a protectorate, shall join with the document relating thereto a notification addressed to the other Signatory Powers of the present Act, in order to enable them, if necessary, to make good their claims.

Article XXXV.—The Signatory Powers of the present Act recognise their obligation to assure in the territories they may occupy, on the coast of the African Continent, the existence of an authority sufficient to assure respect of the acquired rights and, if necessary, freedom of commerce and transit in accordance with the conditions stipulated.

The question was taken up by the Institute of International Law the same year at the suggestion of Professor de Martitz of Berlin.[1]

A project of an international declaration of rules to be followed in occupations of territory, of which M. Engelhardt was the author, was discussed by the Institute in 1888.[2]

The rules which were adopted by the Institute in that year do not deal with several aspects of the question which have developed in the course of the last twenty years, such as *spheres of interest*, *leases* granted to foreign States, or the *Hinterland* theory. Not only these, but the whole question of occupation and its consequences requires serious re-examination owing to more or less recent events.

The Institute, therefore, appointed a Committee, of which the present writer is convener, to revise its rules of 1888.[3]

One of the immediate consequences of the adoption of the principle of effective occupation by the Berlin Conference of

[1] See his report and conclusions, *Annuaire*, vol. viii. p. 346, vol. ix. pp. 244 *et seq.*

[2] See *Annuaire*, vol. x. pp. 176, 201.

[3] See Sir T. Barclay's report, *Annuaire* (1908).

1885, with a view to putting an end to fictitious occupations, was that the States affected sought a means of evading it. Hence the device of *spheres of influence.* The recognition of a sphere of influence assured priority of right to the claimant State, to the exclusion of all other States, until the time when the claimant State felt itself in a position to proceed to effective occupation. Since then, the idea of a sphere of influence has lost this sense of a preparatory quasi-occupation; and certain States have concluded Conventions fixing the sphere of their influence in territories which they have no intention to occupy and of which they have even agreed to respect the integrity.

It will therefore be well to make a distinction between the two kinds of "spheres," to restrict the name of *sphere of influence* to spheres where there is no idea of occupation, and to use another expression which is also employed in practice, viz., "*sphere of interest*," for preliminary quasi-occupations. The latter expression is based upon the reality of the *interest* as compared with the more or less vague idea of an *influence.*

"Spheres of influence" as distinguished from "spheres of interest" are outside the scope of international arrangements of general application.[1]

As regards *spheres of interest*, it is contrary to modern ideas that any State should have the right to exclude other States from its spheres of interest for an indefinite time. The habitable parts of the globe being limited, the equalisation of the rights of States and their subjects or citizens as far as possible requires that a limit of time be imposed upon claimant States. If this principle be accepted, then, at the expiration of such time, the claimant State must either renew its claim or renounce it, or proceed to a regular occupation. I propose to fix the limit of time at thirty years, that is, one generation of mankind.

The idea of a sphere of interest presupposes an interest. I insist on this fact. It would be dangerous to allow the renewal, in the form of spheres of interest, of old abuses resulting from fictitious occupations.

For the same reason it is necessary to examine whether the presence of religious or moral missions should be regarded as a material interest.

Conflicts generally arise out of rivalry consequent on territorial and commercial expansion, and more particularly because, in the interest of certain States, the subjects or citizens of other States may be excluded from present or future markets.[2] Hence the need of a clause to assure (as has already been done in China, Central Africa, and Morocco) the principle of equality of treatment without distinction of nationality. This principle has been definitely adopted as a fundamental condition, as regards economical expansion in the regions above mentioned,

[1] The Anglo-Russian agreement of August 31, 1907, avoids the use of the word "sphere," but creates "regions," in which the H.C.P. recognise each other's exclusive interest.

[2] Comp. Barclay, *Problems*, pp. 133 *et seq.*

and most of the Powers are now eager to affirm their attachment to it.[1]

In the following project I have also endeavoured to give precision to the *Hinterland* doctrine and to work out the consequences of the new institution of *leases between States.*

Moreover, since it has become possible, it is desirable to centralise all matters concerning Conventions of a general character. For this purpose the Bureau of the Permanent Administrative Council of the Hague Court might be used. Through it all communications of a general character might be addressed to the other States, and notices addressed to its President (the Minister of Foreign Affairs of the Netherlands) be considered as having been notified to all the High Contracting Powers at the expiration of a certain time to be fixed, after acknowledgment of receipt of the said notice.

The original resolutions of the Institute, and the alterations, amendments, and additions I propose to make as convener of the new Committee of the Institute dealing with this subject, are set out in the following parallel columns:

[1] See *op. cit.*, pp. 17, 134 *et seq.*

Draft of international declaration relative to occupations of territory adopted by the Institute, September 7, 1888.

Article I.—L'occupation d'un territoire à titre de souveraineté ne pourra être reconnue comme effective que si elle réunit les conditions suivantes :

1°. La prise de possession d'un territoire enfermé dans certaines limites, faite au nom du gouvernement ;

2°. La notification officielle de la prise de possession.

La prise de possession s'accomplit par l'établissement d'un pouvoir local responsable, pourvu de moyens suffisants pour maintenir l'ordre et pour assurer l'exercice régulier de son autorité dans les limites du territoire occupé. Ces moyens pourront être empruntés à des institutions existantes dans le pays occupé.

La notification de la prise de possession se fait soit par la publication dans la forme qui, dans chaque État, est en usage pour la notification des actes officiels, soit par la voie diplomatique. Elle contiendra la détermination approximative des limites du territoire occupé.

Article II.—Les règles énoncées dans l'article ci-dessus sont applicables au cas où une puissance, sans assumer l'entière souveraineté d'un territoire et tout en maintenant avec ou sans restrictions, l'autonomie administrative indigène, placerait ce territoire sous son protectorat.

New draft submitted by the author.

ANNEXIONS.

1. L'annexion, c'est-à-dire l'occupation d'un territoire à titre de souveraineté, ne pourra être reconnue comme effective que si elle réunit les conditions suivantes :

1°. Que la prise de possession soit faite au nom d'un gouvernement ;

2°. Que le gouvernement qui a pris possession en donne avis officiel aux autres gouvernements ;

3°. Que le dit avis ait déterminé les limites du territoire annexé.

La prise de possession s'accomplit par l'établissement d'un pouvoir local pourvu de moyens suffisants pour maintenir l'ordre et pour assurer l'exercice régulier de son autorité dans les limites du territoire annexé. Ces moyens pourront être empruntés à des institutions existant dans le pays occupé.

L'avis de la prise de possession se fait par sa publication, dans la forme qui, dans chaque État, est en usage pour la notification des actes officiels, et par la voie diplomatique.

Les limites du territoire occupé seront indiquées avec autant de précision que le permet l'état des connaissances géographiques en ce qui concerne ce territoire.

PROTECTORATS.

II. — Les règles énoncées dans l'article ci-dessus sont également ap-

Article III.—Si la prise de possession donnait lieu à des réclamations fondées sur des titres antérieurs et si la procédure diplomatique ordinaire n'amenait pas une entente entre les parties intéressées, celles-ci feraient appel, soit aux bons offices, soit à la médiation, soit à l'arbitrage d'une ou plusieurs tierces puissances.

Article IV.—Sont proscrites toutes guerre d'extermination des tribus indigènes, toutes rigueurs inutiles, toutes tortures, même à titre de représailles.

Article V.—Dans les territoires visés par la présente déclaration l'autorité respectera ou fera respecter tous les droits, notamment la propriété privée, tant indigène qu'étrangère tant individuelle que collective.

Article VI.—La dite autorité a le devoir de veiller à la conservation des populations indigènes, à leur éducation et à l'amélioration de leurs conditions morales et matérielles.

Elle favorisera et protègera, sans distinction de nationalité, toutes les institutions et entreprises particulières créées et organisées à ces fins, sous la réserve que les intérêts politiques de l'État occupant ou protecteur ne seront point compromis ou menacés par l'action ou par tendances de ces institutions et entreprises.

Article VII.—La liberté de conscience est garantie aux indigènes comme aux nationaux et aux étrangers.

L'exercice de tous les cultes ne sera soumis à aucune restriction ni entrave.

On proscrira, toutefois, les pratiques contraires aux lois de la morale et de l'humanité.

Article VIII.—L'autorité préparera l'abolition de l'esclavage.

L'achat ou l'emploi des esclaves pour le service domestique par d'autres que par des indigènes seront immédiatements interdits.

Article IX.—La traite sera interdite dans toute l'étendue des territoires visés par la présente déclaration.

Ces territoires ne pourront servir ni de marchés, ni de voie de transit pour la vente des esclaves, et les mesures les plus rigoureuses seront prises contre ceux qui se livreraient ou qui seraient intéressés à ce trafic.

On empêchera l'introduction et le commerce intérieur des cangues et autres instruments de supplice à l'usage des propriétaires d'esclaves.

Article X.—Le débit des boisons fortes sera règlementé et contrôlé de façon à préserver les populations indigènes des maux résultant de leur abus.[5]

plicables au cas où un État, sans assumer l'entière souveraineté d'un territoire et même sans supprimer l'autonomie administrative indigène, placerait ce territoire sous son protectorat.

III.—Dans les territoires visés par les articles ci-dessus, l'autorité respectera ou fera respecter tous les droits existants tant indigènes qu'étrangers, tant individuels que collectifs, qui ne seraient pas contraires aux usages universellement reconnus par la civilisation européenne.[1]

IV.—Elle aura, en outre, le devoir de veiller à la conservation des populations indigènes, à leur instruction et à l'amélioration de leur condition morale et matérielle.

Elle favorisera et protègera, sans distinction de nationalité, toutes les institutions et entreprises particulières créées et organisées à ces fins, sous la réserve que les intérêts politiques de l'État occupant ou protecteur ne seront point compromis ou menacés par l'action ou par les tendances de ces institutions et entreprises.[2]

V.—La liberté de conscience est garantie aux indigènes comme aux nationaux et aux étrangers.

L'exercice de tous les cultes sera permis sans aucune restriction ni entrave ; seules les pratiques contraires à la morale et à l'humanité peuvent être interdites.[3]

VI.—L'achat ou l'emploi des esclaves pour le service domestique, par d'autres que par des indigènes, seront interdits.[4]

VII.—La traite sera interdite dans toute l'étendue des territoires visés par la présente déclaration.

Ces territoires ne pourront servir ni de marchés ni de voie de transit pour la vente des esclaves, et les mesures les plus rigoureuses seront prises contre ceux qui se livreraient ou qui seraient intéressés à ce trafic.

On empêchera l'introduction et le commerce intérieur des cangues et autres instruments de supplice à l'usage des propriétaires d'esclaves.[5]

SPHÈRES D'INTÉRÊT.

Attendu que la pratique des sphères d'intérêt ne doit pas s'exercer de telle façon qu'elle rétablisse les occupations fictives que les Puissances représentées à la Conférence de Berlin de 1884–85 ont voulu empêcher de se renouveler ;[6]

VIII.—Dans le cas où un État ne se trouverait capable d'assumer ni une annexion ni un protectorat, il aura le

[1] See Article V. in adjacent column.

[2] See Article VI. in adjacent column.

[3] See Article VII. in adjacent column.

[4] See Article VIII. in adjacent column.

[5] Slave trade and the sale of spirituous liquors are now regulated by the Brussel General Act of 1889–90. See *Problems*, pp. 325 *et seq.*

[6] See General Act, Article XXXIV.

droit de s'attribuer sur un territoire non-occupé une sphère d'intérêt dans les conditions suivantes :

(*a*) Qu'un avis officiel en soit donné aux gouvernements limitrophes ;

(*b*) Que les limites de la sphère d'intérêt soient déterminées avec autant de précision que les connaissances géographiques le permettront.

IX.—Les États limitrophes auront le droit, pendant un an à partir de la réception du dit avis, de faire valoir toute réclamation par un contre-avis officiel. Passé ce délai, la sphère d'intérêt pourra être considérée par l'État qui l'aura revendiquée comme définitivement acquise.

X.—Les droits d'un État dans le territoire compris dans sa sphère d'intérêt auront une durée de trente ans. A l'expiration de ce délai il sera obligé de donner un nouvel avis officiel aux gouvernements limitrophes.

Ce délai de trente ans ayant pour objet de donner à l'État revendiquant le temps nécessaire pour préparer une annexion ou un protectorat, il y aura lieu pour l'État revendiquant soit d'assumer les obligations dérivant de l'un ou de l'autre, de ces actes, soit de revendiquer de nouveau l'exercice de ses droits dans la sphère en question.

XI.—Dans aucun cas il ne sera loisible à un État de revendiquer une sphère d'intérêt dans un pays dont il n'est pas limitrophe ou lorsqu'il n'aurait dans le territoire en question aucun établissement soit officiel, soit dépendant de ses ressortisants.

Une mission religieuse ou se disant moralisatrice ne peut servir de justification pour la revendication d'une sphère d'intérêt.

HINTERLAND.

Attendu que la notion d'un *hinterland* est reconnue dans les usages internationaux, mais que son application trop vague se paête à des conflits ; qu'il y a lieu de soumettre toute revendication basée sur la dite notion à une réglementation précise.

XII. — Tout État exerçant des droits de souveraineté ou de protectorat sur la côte maritime d'un territoire non-occupé aura un droit de priorité dans la revendication d'une sphère d'intérêt jusqu'à la limite navigable des rivières débouchant sur la côte en question. Ce droit de priorité s'étendra jusqu'à une ligne parallèle à la côte qui comprendra latéralement les parties navigables des dites rivières et de leurs tributaires navigables.

Tout autre État peut mettre le dit État, occupant de la côte, en demeure de procéder à la délimitation de la susdite sphère d'intérêt s'il en revendique. La mise en demeure aura la forme d'un avis officiel. Si, dans le courant d'une année à partir de la dite mise en demeure, la délimitation n'était pas notifiée a l'État qui l'aurait mis en demeure, ce dernier aurait le droit de revendiquer une sphère d'intérêt sur tout le territoire non occupé, sauf la partie sur laquelle les dits droits de souveraineté ou de protectorat sont déjà exercés.

BAUX.

Attendu qu'il y a lieu de déterminer les obligations qui résultent d'un bail de territoire consenti par un État à un autre État vis-à-vis des États tiers ; attendu qu'en temps de paix, il ne se présente pas de difficultés à l'envisager comme faisant partie du territoire du preneur ; mais qu'en cas de guerre entre un État tiers et le bailleur, i peut être difficile de traiter un territoire loué, souvent une simple enclave, comme territoire neutre, et qu'en cas de guerre entre l'État preneur et un État tiers, il y a lieu de donner à l'État bailleur la faculté de revendiquer ses droits souverains pour eloigner autant que possible la guerre de ses domaines ;

XIII.—Tout bail de territoire consenti par un État à un autre État sera notifié à tous les autres États par l'État bailleur.

L'État preneur restera pendant la durée du bail responsable de tous les faits qui se produiront sur le territoire loué, vis-à-vis des États tiers et leurs ressortissants. En cas de guerre entre l'État bailleur et un État tiers, l'État preneur aura le choix de déclarer son intention de revendiquer la neutralité du territoire loué et en ce cas il sera tenu d'en observer les lois et usages. S'il ne le déclare pas, le territoire loué sera soumis aux lois et usages de la guerre comme territoire ennemi. En cas de guerre entre l'État preneur et un État tiers, l'État bailleur aura le droit de revendiquer la neutralite du dit territoire et, en ce cas, il sera tenu de veiller a l'observation des lois et usages qui incombent aux États neutres.

RÉSERVE DES DROITS DES ÉTATS EN GÉNÉRAL.

Attendu que les États ont tous un intérêt à la conservation des marchés qui existent ou qui peuvent se développer ;

Attendu que, en consequence, des conflits proviennent souvent de questions de rivalité ayant rapport à l'expansion territoriale et commerciale, et surtout de l'exclusion possible, pour le profit d'États particuliers, du commerce et de l'enterprise d'autres États, de marchés actuels ou futurs ;[1]

Attendu qu'en Chine, en Afrique centrale, et au Maroc le principe d'égalité de traitement, sans distinction de nationalités, a été définitivement adopté comme condition fondamentale en ce qui concerne l'expansion économique dans ces régions, et que la plupart des Puissances ont déjà signifié leur attachement à ce principe d'égalite ;[2]

XIV.—Il est entendu que, dans tous les cas où un État viendrait à étendre son domaine ou une influence dominante sur un territoire en dehors de l'Europe, soit sous forme d'annexion, protectorat, bail, sphère d'intérêt, soit autrement, il le fera sous la condition expresse qu'un traitement d'égalité absolue, en ce qui concerne les droits d'importation ou d'exportation, les concessions, les privilèges, et toutes autres stipulations d'ordre économique, sera accordé, maintenu ou reconnu, selon le cas, aux sujets et citoyens de tous les États sans distinction.

[1] See *Problems*, pp. 133 *et seq.*

[2] See *op. cit.*, pp. 7, 134 *et seq.*

APPENDICES

1. HAGUE CONVENTIONS (1907)

FINAL ACT OF THE SECOND INTERNATIONAL PEACE CONFERENCE

(Acte Final de la Deuxième Conférence Internationale de la Paix)

La Deuxième Conférence Internationale de la Paix, proposée d'abord par Monsieur le Président des États-Unis d'Amérique, ayant été, sur l'invitation de Sa Majesté l'Empereur de Toutes les Russies, convoquée par Sa Majesté la Reine des Pays-Bas, s'est réunie le 15 juin 1907 à La Haye, dans la Salle des Chevaliers, avec la mission de donner un développement nouveau aux principes humanitaires qui ont servi de base à l'œuvre de la Première Conférence de 1899.

Les Puissances, dont l'énumération suit, ont pris part à la Conférence, pour laquelle Elles avaient désigné les Délégués nommés ci-après :

L'ALLEMAGNE :

Son Exc. le Baron MARSCHALL DE BIEBERSTEIN, Ministre d'État, Ambassadeur Impérial à Constantinople, Premier Délégué Plénipotentiaire ;

M. KRIEGE, Envoyé Impérial en Mission extraordinaire à la présente Conférence, Conseiller Intime de Légation et Jurisconsulte au Département des Affaires Etrangères, Membre de la Cour permanente d'Arbitrage, deuxième Délégué Plénipotentiaire ;

M. le Contre-Amiral SIEGEL, Attaché Naval à l'Ambassade Impériale à Paris, Délégué de la Marine ;

M. le Major-Général DE GUNDELL, Quartier-Maître Supérieur du Grand État-major de l'Armée Royale de Prusse, Délégué militaire ;

M. ZORN, Professeur à la Faculté de Droit de l'Université de Bonn, Conseiller Intime de Justice, Membre de la Chambre des Seigneurs de Prusse, et Syndic de la Couronne, Délégué scientifique ;

M. GÖPPERT, Conseiller de Légation et Conseiller adjoint au Département des Affaires Etrangères, Délégué adjoint ;

M. RETZMANN, Capitaine-Lieutenant de l'État-major général de la Marine, Délégué adjoint de la Marine.

Les ÉTATS-UNIS D'AMÉRIQUE :

Son Exc. M. JOSEPH H. CHOATE, ancien Ambassadeur à Londres, Ambassadeur extraordinaire, Délégué Plénipotentiaire ;

The Second International Peace Conference, proposed in the first place by the President of the United States of America, having been, upon the invitation of His Majesty the Emperor of Russia, called together by Her Majesty the Queen of the Netherlands, assembled on 15th June 1907 at The Hague, in the Knights' Hall, with the object of giving a further development to the humanitarian principles which served as the basis of the work of the First Conference of 1899.

The following Powers have taken part in the Conference for which they had appointed the Delegates hereinafter mentioned.

(*Names of High Contracting Powers.*)

Son Exc. M. HORACE PORTER, ancien Ambassadeur à Paris, Ambassadeur extraordinaire, Délégué Plénipotentiaire ;

Son Exc. M. URIAH M. ROSE, Ambassadeur extraordinaire, Délégué Plénipotentiaire ;

Son Exc. M. DAVID JAYNE HILL, ancien Sous-Secrétaire d'État des Affaires Etrangères, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

M. le Contre-Amiral CHARLES S. SPERRY, ancien Président de l'Ecole de Guerre maritime, Ministre plénipotentiaire, Délégué Plénipotentiaire ;

M. le Général de Brigade GEORGE B. DAVIS, Chef de la Justice militaire de l'Armée des États-Unis, Ministre plénipotentiaire, Délégué Plénipotentiaire ;

M. WILLIAM I. BUCHANAN, ancien Ministre à Buenos Ayres, ancien Ministre au Panama, Ministre plénipotentiaire, Délégué Plénipotentiaire ;

M. JAMES BROWN SCOTT, Jurisconsulte du Département d'État des Affaires Etrangères, Délégué technique ;

M. CHARLES HENRY BUTLER, Rapporteur de la Cour Suprême, Délégué technique.

La RÉPUBLIQUE L'ARGENTINE :

Son Exc. M. ROQUE SAENZ PENA, ancien Ministre des Affaires Etrangères, Envoyé extraordinaire et Ministre plénipotentiaire à Rome, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. M. LUIS M. DRAGO, ancien Ministre des Affaires Etrangères, Député, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. M. CARLOS RODRIGUEZ LARRETA, ancien Ministre des Affaires Etrangères, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. le Général FRANCISCO REYNOLDS, Attaché militaire á Berlin, Délégué technique ;

M. le Capitaine de vaisseau JUAN A. MARTIN, ancien Ministre de la Marine, Attaché naval à Londres, Délégué technique.

L'AUTRICHE-HONGRIE :

Son Exc. M. GAËTAN MÉREY DE KAPOS-MÉRE, Conseiller intime de Sa Majesté Impériale et Royale Apostolique, Ambassadeur extraordinaire et plénipotentiaire, premier Délégué Plénipotentiaire ;

Son Exc. le Baron CHARLES DE MACCHIO, Envoyé extraordinaire et Ministre plénipotentiaire à Athènes, deuxième Délégué Plénipotentiaire ;

M. HENRI LAMMASCH, Professeur à l'Université de

Vienne, Conseiller aulique, Membre de la Chambre des Seigneurs du Reichsrath autrichien, Membre de la Cour permanente d'Arbitrage, Délégué scientifique ;

M. ANTOINE HAUS, Conte-Amiral, Délégué naval ;

M. le Baron WLADIMIR GIESL DE GIESLINGEN, Major-Général Plénipotentiaire militaire à l'Ambassade Impériale et Royale à Constantinople et à la Légation Impériale et Royale à Athènes, Délégué militaire ;

M. le Chevalier OTHON DE WEIL, Conseiller aulique et ministériel au Ministère de la Maison Impériale et Royale et des Affaires Etrangères, Délégué ;

M. JULES SZILASSY DE SZILAS ET PILIS, Conseiller de Légation, Délégué ;

M. EMILE KONEK DE NORWALL, Lieutenant de Vaisseau de première classe, Délégué adjoint.

La BELGIQUE :

Son Exc. M. A. BEERNAERT, Ministre d'État, Membre de la Chambre des Représentants, Membre de l'Institut de France et des Académies Royales de Belgique et de Roumanie, Membre d'honneur de l'Institut de Droit international, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. M. J. VAN DEN HEUVEL, Ministre d'État, ancien Ministre de la Justice, Délégué Plénipotentiaire ;

Son Exc. le Baron GUILLAUME, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Membre de l'Académie Royale de Roumanie, Délégué Plénipotentiaire.

La BOLIVIE :

Son Exc. M. CLAUDIO PINILLA, Ministre des Affaires Etangères, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. M. FERNANDO E. GUACHALLA, Ministre plénipotentiaire à Londres, Délégué Plénipotentiaire.

Le BRÉSIL :

Son Exc. M. RUY BARBOSA, Ambassadeur extraordinaire et plénipotentiaire, Vice-Président du Sénat, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. M. EDUARDO F. S. DOS SANTOS LISBÔA, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

M. le Colonel ROBERTO TROMPOWSKY LEITÂO DE ALMEIDA, Attaché militaire à La Haye, Délégué technique ;

M. le Capitaine de Frégate TANCREDO BURLAMAQUI DE MOURA, Délégué technique.

La BULGARIE :

M. le Général-Major de l'État-Major VRBAN VINAROFF, Général à la Suite, premier Délégué Plénipotentiaire ;

M. IVAN KARANDJOULOFF, Procureur Général de la Cour de Cassation, Second Délégué Plénipotentiaire ;

M. le Capitaine de Frégate S. DIMITRIEFF, Chef de l'État-Major de la Flottille Bulgare, Délégué.

Le CHILI :

Son Exc. M. DOMINGO GANA, Envoyé extraordinaire et Ministre plénipotentiaire à Londres, Délégué Plénipotentiaire ;

Son Exc. M. AUGUSTO MATTE, Envoyé extraordinaire et Ministre plénipotentiaire à Berlin, Délégué Plénipotentiaire ;

Son Exc. M. CARLOS CONCHA, ancien Ministre de la Guerre, ancien Président de la Chambre des Députés, ancien Envoyé extraordinaire et Ministre plénipotentiaire à Buenos, Ayres, Délégué Plénipotentiaire.

La CHINE :

Son Exc. M. LOU TSENG-TSIANG, Ambassadeur extraordinaire, Délégué Plénipotentaire ;

Son Exc. The Honourable JOHN W. FOSTER, ancien Secrétaire d'État au Département des Affaires Etrangères des États-Unis d'Amérique, Délégué Plénipotentiaire ;

Son Exc. M. TSIEN-SUN, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

M. le Colonel W. S. Y. TINGE, Chef du Bureau de Justice militaire au Ministère de la Guerre, Délégué militaire ;

M. TCHANG TCHING TONG, Secrétaire de Légation, Délégué adjoint ;

M. TCHAO-HI-TCHIOU, ancien Secrétaire de la Mission et de la Légation Impériale de Chine à Paris et à Rome, Délégué adjoint.

La COLOMBIE :

M. le Général JORGE HOLGUIN, Délégué Plénipotentiaire ;

M. SANTIAGO PEREZ TRIANA, Délégué Plenipotentiaire ;

Son Exc. le Général M. VARGAS, Envoyé extraordinaire et Ministre plénipotentiaire à Paris, Délégué Plénipotentiaire.

La RÉPUBLIQUE DE CUBA :

M. ANTONIO SANCHEZ DE BUSTAMANTE, Professeur de Droit International à l'Université de la Havane, Sénateur de la République, Délégué Plénipotentiaire ;

Son Exc. M. GONZALO DE QUESADA Y ARÓSTEGUI, Envoyé extraordinaire et Ministre plénipotentiaire à Washington, Délégué Plénipotentiaire ;

M. MANUEL SANGUILY, ancien Directeur de l'Institut d'enseignement secondaire de la Havane, Sénateur de la République, Délégué Plénipotentiaire.

Le DANEMARK :

Son Exc. M. C. BRUN, Envoyé extraordinaire et Ministre plénipotentiaire à Washington, premier Délégué Plénipotentiaire ;

M. le Contre-Amiral C. F. SCHELLER, deuxiéme Délégué Plénipotentiaire ;

M. A. VEDEL, Chambellan, Chef de Section au Ministère Royal des Affaires Etrangères, troisième Délégué Plénipotentiaire.

La RÉPUBLIQUE DOMINICAINE :

M. FRANCISCO HENRIQUEZ I CARVAJAL, ancien Ministre des Affaires Etrangères, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. APOLINAR TEJERA, Recteur de l'Institut Professionnel de Saint Domingue, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire.

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Son Exc. M. VICTOR RENDON, Envoyé extraordinaire et Ministre plénipotentiaire à Paris et à Madrid, Délégué Plénipotentiaire ;

M. ENRIQUE DORN Y DE ALSÚA, Chargé d'Affaires, Délégué Plénipotentiaire.

L'ESPAGNE :

Son Exc. M. W. R. DE VILLA-URRUTIA, Sénateur, ancien Ministre des Affaires Etrangères, Ambassadeur extraordinaire et plénipotentiaire à Londres, premier Délégué Plénipotentiaire ;

Son Exc. M. JOSÉ DE LA RICA Y CALVO, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

M. GABRIEL MAURA Y GAMAZO, COMTE DE LA MORTERA, Député aux Cortès, Délégué Plénipotentiaire ;

M. J. JOFRE MONTOJO, Colonel d'État Major, Aide de Camp du Ministre de la Guerre, Délégué adjoint militaire ;

M. le Capitaine de Varsseau FRANCISCO CHACON, Délégué adjoint naval.

La FRANCE :

Son Exc. M. LÉON BOURGEOIS, Ambassadeur extraordinaire, Sénateur, ancien Président du Conseil, ancien Ministre des Affaires Etrangères, Membre de la Cour permanente d'Arbitrage, premier Délégué Plénipotentiaire ;

M. le Baron D'ESTOURNELLES DE CONSTANT, Sénateur, Ministre plénipotentiaire de première classe, Membre de la Cour permanente d'Arbitrage, deuxième Délégué Plénipotentiaire ;

M. LOUIS RENAULT, Professeur à la Faculté de Droit de Paris, Ministre plénipotentiaire honoraire, Jurisconsulte du Ministère des Affaires Etrangères, Membre de l'Institut, Membre de la Cour permanente d'Arbitrage, troisième Délégué Plénipotentiaire ;

Son Exc. M. MARCELLIN PELLET, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, quatrième Délégué Plénipotentiaire ;

M. le Général de Division AMOUREL, Délégué militaire ;

M. le Contre-Amiral ARAGO, Délégué de la Marine ;

M. FROMAGEOT, Avocat à la Cour d'Appel de Paris, Délégué technique ;

M. le Capitaine de Vaisseau LACAZE, deuxième Délégué de la Marine.

M. le Lieutenant-Colonel SIBEN, Attaché militaire à Bruxelles et à La Haye, deuxième Délégué militaire.

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Son Exc. The Right Honourable Sir EDWARD FRY, G.C.B., Membre du Conseil privé, Ambassadeur extraordinaire, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. The Right Honourable Sir ERNEST MASON SATOW, G.C.M.G., Membre du Conseil privé, Membre de la Cour permanente d'Arbitrage, Délégue Plénipotentiaire ;

Son Exc. The Right Honourable Lord REAY, G.C.S.I., G.C.I.E., Membre du Conseil privé, ancien Président de l'Institut de Droit international, Délégué Plénipotentiaire ;

Son Exc. Sir Henry HOWARD, K.C.M.G., C.B., Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

M. le Général de Division Sir Edmond R. ELLES, G.C.I.E., K.C.B., Délégué militaire ;

M. le Capitaine de Vaisseau C. L. OTTLEY, M.V.O., R.N., A.D.C., Délégué naval ;

M. EYRE CROWE, Conseiller d'Ambassade, Délégué technique, premier Secrétaire de la Délégation ;

M. CECIL HURST, Conseiller d'Ambassade, Délégué technique, Conseiller légal de la Délégation ;

M. le Lieutenant-Colonel The Honourable HENRY YARDE-BULLER, D.S.O., Attaché militaire à La Haye, Délégué technique ;

M. le Capitaine de frégate J. R. SEGRAVE, R.N., Délégué technique.

M. le Commandant GEORGE K. COCKERILL, Chef de Section a l'État-Major de l'Armée, Délégué technique.

La GRÈCE :

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M. GEORGES STREIT, Professeur de Droit International à l'Université d'Athènes, Membre de la Cour permanente d'Arbitrage, deuxième Délégué Plénipotentiaire ;

M. le Colonel d'artillerie C. SAPOUNTZAKIS, Chef de l'État-Major Général, Délégué technique.

Le GUATÉMALA :

M. JOSÉ TIBLE MACHADO, Chargé d'affaires à La Haye et à Londres, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. ENRIQUE GOMEZ CARRILLO, Chargé d'Affaires à Berlin, Délégué Plénipotentiaire.

La RÉPUBLIQUE D'HAÏTI :

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Son Exc. M. J. N. LÉGER, Envoyé extraordinaire et Ministre plénipotentiaire à Washington, Délégué Plenipotentiaire ;

M. PIERRE HUDICOURT, ancien professeur de Droit International Public, Avocat du Barreau de Port-au-Prince, Délégué Plénipotentiaire.

L'ITALIE :

Son Exc. le Comte JOSEPH TORNIELLI BRUSATI DI VERGANO, Sénateur du Royaume, Ambassadeur de Sa Majesté le Roi à Paris, Membre de la Cour permanente d'Arbitrage, Président de la Délégation Italienne, Délégué Plénipotentiaire ;

Son Exc. M. GUIDO POMPILJ, Député au Parlement, Sous-Secrétaire d'État au Ministère Royal des Affaires Etrangères, Délégué Plénipotentiaire.

M. GUIDO FUSINATO, Conseiller d'État, Député au

Parlement, ancien Ministre de l'Instruction, Délégué Plénipotentiaire ;

M. MARIUS NICOLIS DE ROBILANT, Général de Brigade, Délégué technique ;

M. FRANÇOIS CASTIGLIA, Capitaine de Vaisseau, Délégué technique.

Le JAPON :

Son Exc. M. KEIROKU TSUDZUKI, Ambassadeur extraordinaire et plénipotentiaire, premier Délégué Plénipotentiaire ;

Son Exc. M AIMARO SATO, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, deuxième Délégué Plénipotentiaire ;

M. HENRY WILLARD DENISON, Jurisconsulte du Ministère Impérial des Affaires Etrangères, Membre de la Cour permanente d'Arbitrage, Délégué technique ;

M. le Major-Général YOSHIFURU AKIYAMA, Inspecteur de la Cavalerie, Délégué technique ;

M. le Contre-Amiral HAYAO SHIMAMURA, Président de l'Ecole de la Marine à Etajima, Délégué technique.

Le LUXEMBOURG :

Son Exc. M. EYSCHEN, Ministre d'État, Président du Gouvernement Grand-Ducal, Délégué Plénipotentiaire ;

M. le Comte DE VILLERS, Chargé d'Affaires à Berlin, Délégué Plénipotentiaire.

Le MEXIQUE :

Son Exc. M. GONZALO A. ESTEVA, Envoye extraordinaire et Ministre plénipotentiaire à Rome, premier Délégué Plénipotentiaire ;

Son Exc. M. SEBASTIAN B. DE MIER, Envoyé extraordinaire et Ministre plénipotentiaire à Paris, deuxième Délégué Plénipotentiaire ;

Son Exc. M. FRANCISCO L. DE LA BARRA, Envoyé extraordinaire et Ministre plénipotentiaire à Bruxelles et à La Haye, troisième Délégué Plénipotentiaire.

Le MONTÉNÉGRO :

Son Exc. M. NELIDOW, Conseiller Privé Actuel, Ambassadeur de Russie à Paris, Délégué Plénipotentiaire ;

Son Exc. M. DE MARTENS, Conseiller Privé, Membre permanent du Conseil du Ministère Impérial des Affaires Etrangères de Russie, Délégué Plénipotentiaire ;

Son Exc. M. TCHARYKOW, Conseiller d'État Actuel, Chambellan, Envoyé extraordinaire et Ministre plénipotentiaire de Russie à La Haye, Délégué Plénipotentiaire.

Le NICARAGUA :

Son Exc. M. CRISANTO MEDINA, Envoyé extraordinaire et Ministre plénipotentiaire à Paris, Délégué Plénipotentiaire.

La NORVÈGE :

Son Exc. M. FRANCIS HAGERUP, ancien Président du Conseil, ancien Professeur de Droit, Membre de la Cour permanente d'Arbitrage, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye et à Copenhague, Délégué Plenipotentiaire ;

M. JOACHIM GRIEG, Armateur et Député, Délégué technique ;

M. CHRISTIAN LOUS LANGE, Secrétaire du Comité Nobel du Storting Norvégien, Délégué technique.

Le PANAMA :

M. BELISARIO PORRAS, Délégué Plénipotentiaire.

Le PARAGUAY :

Son Exc. M. EUSEBIO MACHAIN, Envoyé extraordinaire et Ministre plénipotentiaire à Paris, Délégué Plénipotentiaire.

Les PAYS-BAS :

M. W. H. DE BEAUFORT, ancien Ministre des Affaires Etrangères, Membre de la Seconde Chambre des États-Généraux, Délégué Plénipotentiaire ;

Son Exc. M. T. M. C. ASSER, Ministre d'État Membre du Conseil d'État, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. le Jonkheer J. C. C. DEN BEER PORTUGAEL, Lieutenant-Général en retraite, ancien Ministre de la Guerre, Membre du Conseil d'État, Délégué Plénipotentiaire ;

Son Exc. le Jonkheer J. A. ROELL, Aide de Camp de Sa Majesté la Reine en service extraordinaire, Vice-Amiral en retraite, ancien Ministre de la Marine, Délégué Plénipotentiaire ;

M. J. A. LOEFF, ancien Ministre de la Justice, Membre de la Seconde Chambre des États-Généraux, Délégué Plénipotentiaire ;

M. H. L. VAN OORDT, Lieutenant-Colonel de l'État-major, Professeur à l'Ecole supérieure militaire, Délégué technique ;

M. le Jonkheer W. J. M. VAN EYSINGA, Chef de la Direction politique au Ministère des Affaires Etrangères, Délégué adjoint ;

M. le Jonkheer H. A. VAN KARNEBEEK, Gentilhomme

de la Chambre, Sous-Chef de Division au Ministère des Colonies, Délégué adjoint ;

M. H. G. SURIE, Lieutenant de Vaisseau de première classe, Délégué technique.

Le PÉROU :

Son Exc. M. CARLOS G. CANDAMO, Envoyé extraordinaire et Ministre plénopotentiaire à Paris et à Londres, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. GUSTAVO DE LA FUENTE, Premier Secrétaire de Légation à Paris, Délégué adjoint.

La PERSE :

Son Exc. SAMAD KHAN MOMTAS-ES-SALTANEH, Envoyé extraordinaire et Ministre plénipotentiaire à Paris, Membre de la Cour permanent d'Arbitrage, premier Délégué Plénipotentiaire ;

Son Exc. MIRZA AHMED KHAN SADIG UL MULK, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

M. HENNEBICQ, Jurisconsulte du Ministère des Affaires Etrangères à Téhéran, Délégué technique.

Le PORTUGAL :

Son Exc. le Marquis de SOVERAL, Conseiller d'État, Pair du Royaume, ancien Ministre des Affaires Etrangères, Envoyé extraordinaire et Ministre plénipotentiaire à Londres, Ambassadeur extraordinaire et plénipotentiaire, Délégué Plénipotentiaire ;

Son Exc. le Comte DE SÉLIR, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

Son Exc. M. ALBERTO D'OLIVEIRA, Envoyé extraordinaire et Ministre plénipotentiaire à Berne Délégué Plénipotentiaire ;

M. le Lieutenant-Colonel d'État-major THOMAZ ANTONIO GARCIA ROSADO, Délégué technique ;

M. GUILHERME IVENS FERRAZ, Capitaine-lieutenant de la Marine, Délégué technique.

La ROUMANIE :

Son Exc. M. ALEXANDRE BELDIMAN, Envoyé extraordinaire et Ministre plénipotentiaire à Berlin, premier Délégué Plénipotentiaire ;

Son Exc. M. EDGARD MAVROCORDATO, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, deuxième Délégué Plénipotentiaire ;

M. le Capitaine ALEXANDRE STURDZA, du Grand État-major, Délégué technique.

La RUSSIE :

Son Exc. M. NELIDOW, Conseiller Privé Actuel, Ambassadeur de Russie à Paris, Délégué Plénipotentiaire ;

Son Exc. M. DE MARTENS, Conseiller Privé Membre permanent du Conseil du Ministère Impérial des Affaires Etrangères, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. M. TCHARYKOW, Conseiller d'État Actuel, Chambellan, Envoyé extraordinaire et Ministre plénipotentiaire à La Haye, Délégué Plénipotentiaire ;

M. PROZOR, Conseiller d'État Actuel, Chambellan, Ministre de Russie à Rio-Janeiro, Délégué technique ;

M. le Major-Général YERMOLOW, Attaché militaire à Londres, Délégué technique ;

M. le Colonel MICHELSON, Attaché militaire à Berlin, Délégué technique ;

M. le Capitaine de Vaisseau BEHR, Attaché naval à Londres, Délégué technique ;

M. le Colonel de l'Amirauté OVTCHINNIKOW, Professeur de Droit international à l'Académie de la Marine, Délégué technique.

Le SALVADOR :

M. PEDRO J. MATHEU, Chargé d'Affaires à Paris, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. SANTIAGO PEREZ TRIANA, Chargé d'Affaires à Londres, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire.

La SERBIE :

Son Exc. le Général SAVA GROUÏTCH, Président du Conseil d'État, Délégué Plénipotentiaire ;

Son Exc. M. MILOVAN MILOVANOVITCH, Envoyé extraordinaire et Ministre plénipotentiaire à Rome, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

Son Exc. M. MICHEL MILITCHÉVITCH, Envoyé extraordinaire et Ministre plénipotentiaire à Londres et à La Haye, Délégué Plénipotentiaire.

Le SIAM :

M. le Major-Général MOM CHATIDEJ UDOM, Délégué Plénipotentiaire ;

M. CORRAGIONI D'ORELLI, Conseiller de Légation à Paris, Délégué Plénipotentiaire ;

M. le Capitaine LUANG BHUVANARTH NARÙBAL, Délégué Plénipotentiaire.

La SUÉDE :

Son Exc. M. KNUT HJALMAR LEONARD DE HAMMARSKJÖLD, Envoyé extraordinaire et Ministre plénipotentiaire à Copenhague, ancien Ministre de la Justice, Membre de la Cour permanente d'Arbitrage, premier Délégué Plénipotentiaire ;

M. JOHANNES HELLNER, ancien Ministre sans Portefeuille, ancien Membre de la Cour Suprême de Suède, Membre de la Cour permanente d'Arbitrage, deuxième Délégué Plénipotentiaire ;

M. le Colonel DAVID HEDENGREN, Chef d'un régiment d'artillerie, Délégué technique ;

M. GUSTAF DE KLINT, Capitaine de Frégate, Chef de Section à l'État-major de la Marine Royale, Délégué technique.

La SUISSE :

Son Exc. M. GASTON CARLIN, Envoyé extraordinaire et Ministre plénipotentiaire à Londres et à La Haye, Délégué Plénipotentiaire ;

M. EUGÈNE BOREL, Colonel d'État-Major-Général, Professeur à l'Université de Genève, Délégué Plénipotentiaire ;

M. MAX HUBER, Professeur de Droit à l'Université de Zürich, Délégué Plénipotentiaire.

La TURQUIE :

Son Exc. TURKHAN PACHA, Ambassadeur extraordinaire, Ministre de l'Evkaf, premier Délégué Plénipotentiaire ;

Son Exc. RÉCHID BEY, Ambassadeur de Turquie à Rome, Délégué Plénipotentiaire ;

Son Exc. le Vice-Amiral MEHEMMED PACHA, Délégué Plénipotentiaire ;

RAÏF BEY, Conseiller légiste de la Liste Civile, Délégué adjoint ;

Le Colonel d'État-Major MEHEMMED SAÏD BEY, Délégué adjoint.

L'URUGUAY :

M. JOSÉ BATLLE Y ORDONEZ, ancien Président de la République, Membre de la Cour permanente d'Arbitrage, premier Délégué Plénipotentiaire ;

Son Exc. M. JUAN P. CASTRO, ancien Président du Sénat, Envoyé extraordinaire et Ministre Plénipotentiaire à Paris, Membre de la Cour permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. le Colonel SEBASTIAN BUQUET, Premier Chef de régiment d'artillerie de campagne, Délégué technique.

Les ÉTATS-UNIS du VÉNÉZUÉLA :

M. JOSÉ GIL FORTOUL, Chargé d'Affaires à Berlin, Délégué Plénipotentiaire.

Dans une série de réunions, tenues du 15 juin au 18 octobre 1907, où les Délégués précités ont été constamment animés du désir de réaliser, dans la plus large mesure possible, les vues généreuses de l'Auguste Initiateur de la Conférence et les intentions de leurs Gouvernements, la Conférence a arrêté, pour être soumis à la signature des Plénipotentiaires, le texte des Conventions et de le Déclaration énumérées ci-après et annexées au présent Acte :

I. Convention pour le règlement pacifique des conflits internationaux.
II. Convention concernant la limitation de l'emploi de la force pour le recouvrement de dettes contractuelles.
III. Convention relative à l'ouverture des hostilités.
IV. Convention concernant les lois et coutumes de la guerre sur terre.
V. Convention concernant les droits et les devoirs des Puissances et des personnes neutres en cas de guerre sur terre.
VI. Convention relative au régime des navires de commerce ennemis au début des hostilités.
VII. Convention relative à la transformation des navires de commerce en bâtiments de guerre.
VIII. Convention relative à la pose de mines sous-marines automatiques de contact.
IX. Convention concernant le bombardement par des forces navales en temps de guerre.
X. Convention pour l'adaptation à la guerre maritime des principes de la Convention de Genève.
XI. Convention relative à certaines restrictions à l'exercice du droit de capture dans la guerre maritime.
XII. Convention relative à l'établissement d'une Cour internationale des prises.
XIII. Convention concernant les droits et les devoirs des Puissances neutres en cas de guerre maritime.
XIV. Déclaration relative à l'interdiction de lancer des projectiles et des explosifs du haut de ballons.

Ces Conventions et cette Déclaration formeront autant d'actes séparés. Ces actes porteront la date de ce jour et pourront être signés jusqu'au 30 juin 1908 à La Haye par les Plénipotentiaires des Puissances représentés à la Deuxième Conférence de la Paix.

In a series of meetings held from 15th June to 18th October 1907, where the Delegates above mentioned have constantly been animated by the desire to realise, as far as possible, the generous views of the August Initiator of the Conference and the wishes of their Governments, the Conference has decided upon the text of the Conventions and of the Declaration hereinafter enumerated and annexed to the present Act, to be submitted for signatures by the Plenipotentiaries :

I. Convention for the peaceful settlement of international conflicts.
II. Convention concerning the limitation of the use of force for the recovery of contractual debts.
III. Convention relating to the commencement of hostilities.
IV. Convention concerning the laws and customs of war on land.
V. Convention concerning the rights and duties of neutral Powers and persons in case of war on land.
VI Convention relating to the treatment of enemy merchant ships at the commencement of hostilities.
VII. Convention relating to the conversion of merchant ships into vessels of war.
VIII. Convention relating to the employment of submarine mines acting automatically by contact.
IX. Convention concerning bombardment by naval forces in time of war.
X. Convention for the adaptation to maritime warfare of the principles of the Geneva Convention.
XI. Convention relating to certain restrictions in the exercise of the right of capture in maritime warfare.
XII. Convention relative to the establishment of an International Prize Court.
XIII. Convention concerning the rights and duties of neutral Powers in case of maritime warfare.
XIV. Declaration relating to the prohibition against discharging projectiles and explosives from balloons.

These Conventions and this Declaration shall form separate Acts. These Acts shall bear to-day's date, and may be signed down to 30th June 1908 at The Hague, by the Plenipotentiaries of the Powers represented at the Second Peace Conference.

La Conference, se conformant à l'esprit d'entente et de concessions réciproques qui est l'esprit même de ses délibérations, a arrêté la déclaration suivante qui, tout en réservant à chacune des Puissances représentées le bénéfice de ses votes, leur permet à toutes d'affirmer les principes qu' Elles considèrent comme unanimement reconnus :

Elle est unanime :

1°. A reconnaître le principe de l'arbitrage obligatoire ;

2°. A déclarer que certains différends, et notamment ceux relatifs à l'interprétation et à l'application des stipulations conventionnelles internationales, sont susceptibles d'être soumis à l'arbitrage obligatoire sans aucune restriction.

Elle est unanime enfin à proclamer que, s'il n'a pas été donné de conclure dès maintenant une Convention en ce sens, les divergences d'opinion qui se sont manifestées n'ont pas dépassé les limites d'une controverse juridique, et qu'en travaillant ici ensemble pendant quatre mois, toutes les Puissances du monde, non seulement ont appris à se comprendre et à se rapprocher davantage, mais ont su dégager, au cours de cette longue collaboration, un sentiment très élevé du bien commun de l'humanité.

En outre, la Conférence a adopté à l'unanimité la Résolution suivante :

La Deuxième Conférence de la Paix confirme la Résolution adpotée par la Conférence de 1899 à l'égard de la limitation des charges militaires ; et, vu que les charges militaires se sont considérablement accrues dans presque tous les pays depuis ladite année, la Conférence déclare qu'il est hautement désirable de voir les Gouvernements reprendre l'étude sérieuse de cette question.

Elle a, de plus, émis les Vœux suivants :

1°. La Conférence recommande aux Puissances signataires l'adoption du projet ci-annexé de Convention pour l'établissement d'une Cour de Justice arbitrale, et sa mise en vigueur dès qu'un accord sera intervenu sur le choix des juges et la constitution de la Cour.

2°. La Conférence émet le vœu qu'en cas de guerre, les autorités compétentes, civiles et militaires, se fassent un devoir tout spécial d'assurer et de protéger le maintien des rapports pacifiques et notamment des relations commerciales et industrielles entre les populations des États belligérants et les pays neutres.

The Conference, in conformity with the spirit of agreement, and of reciprocal concessions which is the very spirit of its deliberations, has agreed upon the following declaration which, while reserving to each of the Powers represented the independent effect of its votes, enables them to affirm the principles which they consider as unanimously recognised :

The Conference is unanimous :

1. In recognising the principle of obligatory arbitration.
2. In declaring that certain differences, and, in particular, those relating to the interpretation and application of international treaty stipulations, are susceptible of being submitted to obligatory arbitration without any restriction.

Lastly, it unanimously proclaims that, if it has not yet been possible to conclude a Convention in that sense, the divergences of opinion which have been manifested have not gone beyond the limits of a judicial controversy, and all the Powers of the world by working together for four months have not only come into closer contact and learned to understand each other, but have shown, during their long collaboration, a very high sense of the common welfare of humanity.

Moreover, the Conference has unanimously adopted the following resolution :

The Second Peace Conference confirms the resolution adopted by the Conference of 1899 as regards the limitation of military burdens ; and, seeing that military burdens have considerably increased in nearly all countries since the said year, the Conference declares that it is highly desirable that Governments should again take up the subject seriously.

It has, moreover, expressed the following *vœux* :

1. The Conference recommends to the signatory Powers the adoption of the annexed draft Convention for the establishment of a Court of Arbitral Justice, and its being put in force as soon as an agreement shall have been arrived at on the choice of the judges and the constitution of the Court.
2. The Conference expresses the *vœu* that in case of war the competent authorities, civil and military, shall make it a special duty to assure and protect the maintenance of peaceful relations, and, in particular, of the commercial and industrial relations between the populations of the belligerent States and neutral countries.

3°. La Conférence émet le vœu que les Puissances réglent, par des Conventions particulières, la situation, au point de vue des charges militaires, des étrangers établis sur leurs territoires.

4°. La Conférence émet le vœu que l'élaboration d'un règlement relatif aux lois et coutumes de la guerre maritime figure au programme de la prochaine Conférence et que, dans tous les cas, les Puissances appliquent, autant que possible, à la guerre sur mer, les principes de la Convention relative aux lois et coutumes de la guerre sur terre.[1]

Enfin, la Conférence recommande aux Puissances la réunion d'une troisième Conférence de la Paix qui pourrait avoir lieu, dans une période analogue à celle qui s'est écoulée depuis la précédente Conférence, à une date à fixer d'un commun accord entre les Puissances, et elle appelle leur attention sur la nécessité de préparer les travaux de cette troisième Conférence assez longtemps à l'avance pour que ses délibérations se poursuivent avec l'autorité et la rapidité indispensables.

Pour atteindre à ce but, la Conférence estime qu'il serait très désirable que, environ deux ans avant l'époque probable de la réunion, un Comité préparatoire fût chargé par les Gouvernements de recueillir les diverses propositions à soumettre à la Conférence, de rechercher les matières susceptibles d'un prochain règlement international et de préparer un programme que les Gouvernements arrêteraient assez tôt pour qu'il pût être sérieusement étudié dans chaque pays. Ce Comité serait, en outre, chargé de proposer un mode d'organisation et de procédure pour la Conférence elle-même.

En foi de quoi, les Plénipotentiaires ont signé le présent acte et y ont apposé leurs cachets.

Fait à La Haye, en un seul exemplaire qui sera déposé dans les archives du Gouvernement des Pays-Bas et dont les copies, certifiées conformes, seront délivrées à toutes les Puissances représentées à la Conférence.

3. The Conference expresses the *vœu* that the Powers should regulate, by special Conventions, the situation as regards military burdens, of foreigners established upon their territories.

4. The Conference expresses the *vœu* that the drawing up of regulations regarding the laws and customs of maritime warfare shall figure in the programme of the coming Conference, and that, in any case, the Powers apply, as far as possible, to maritime warfare the principles of the Convention relating to the laws and customs of war on land.

Lastly, the Conference recommends to the Powers the holding of a third Peace Conference which might take place after a period similar to that which elapsed between the first and second Conference, at a date to be fixed by common consent among the Powers, and it calls their attention to the necessity of preparing the work of the third Conference a sufficiently long time beforehand, so that its deliberations be carried on with the authority and rapidity which are indispensable.

To attain this object, the Conference holds that it is desirable that about two years before the probable holding thereof, a preparatory committee be appointed by the Governments to receive the different proposals to be submitted to the Conference and examine the matters susceptible of international settlement and to prepare a programme which the Governments shall decide upon soon enough for it to be seriously studied in each country. The Committee would, moreover, be instructed to propose a system of organisation and procedure for the Conference itself.

In faith of which, the Plenipotentiaries have signed the present Act, and have thereunto affixed their seals.

Done at The Hague, in a single copy which shall be deposited in the archives of the Netherland Government, and of which certified copies shall be delivered to all the Powers represented at the Conference.

[1] See pp. 262 *et seq.*, the draft *Projet* on this subject of the Institute of International Law.

SCHEDULE TO THE FIRST *VŒU* ADOPTED BY THE SECOND PEACE CONFERENCE

(Annexe au 1er *vœu* émis par la Deuxième Conférence de la Paix)

Proposed Convention relating to the Establishment of a Court of Arbitral Justice

(Projet d'une Convention relative à l'établissement d'une Cour de justice arbitrale)

Titre I.

Organisation de la Cour de Justice Arbitrale.

ARTICLE I.

Dans le but de faire progresser la cause de l'arbitrage, les Puissances contractantes conviennent d'organiser, sans porter atteinte à la Cour permanente d'arbitrage, une Cour de justice arbitrale, d'un accès libre et facile, basée sur l'égalité juridique des États, réunissant des juges représentant les divers systèmes juridiques du monde, et capable d'assurer la continuité de la jurisprudence arbitrale.

ARTICLE II.

La Cour de justice arbitrale se compose de juges et de juges suppléants choisis parmi les personnes jouissant de la plus haute considération morale et qui tous dévront remplir les conditions requises, dans leurs pays respectifs, pour l'admission dans la haute magistrature, ou être des jurisconsultes d'une compétence notoire en matière de droit international.

Les juges et les juges suppléants de la Cour sont choisis, autant que possible, parmi les membres de la Cour permanente d'arbitrage. Le choix sera fait dans les six mois qui suivront la ratification de la présente Convention.

ARTICLE III.

Les juges et les juges suppléants sont nommés pour une période de douze ans à compter de la date où la nomination aura été notifiée au Conseil administratif institué par la Convention pour le règlement pacifique des conflits internationaux. Leur mandat peut être renouvelé.

En cas de décès ou de démission d'un juge ou d'un juge suppléant, il est pourvu à son remplacement selon le mode

Title I.

Organisation of the Court of Arbitral Justice.

ARTICLE I.

With a view to promoting the cause of arbitration, the Contracting Powers have agreed to organise, without interfering with the Permanent Arbitration Court, a Court of Arbitral Justice, freely and easily accessible, based upon the judicial equality of States, bringing together judges representing the different judicial systems of the world, and capable of assuring the continuity of arbitral jurisprudence.

ARTICLE II.

The Court of Arbitral Justice shall be composed of judges and assistant judges selected among persons enjoying the highest moral esteem, all of whom shall fulfil the necessary conditions, in their respective countries, for admission into the higher ranks of the judiciary, or be competent and well known lawyers in matters of international law.

The judges and assistant judges of the Court shall be selected, as far as possible, among the members of the Permanent Court of Arbitration. The choice shall be made within the six months following the ratification of the present Convention.

ARTICLE III.

The judges and assistant judges shall be appointed for a period of twelve years from the date of the notification of their appointment to the Administrative Council instituted by the Convention for the peaceful settlement of international conflicts. They may be reappointed.

In case of the death or resignation of a judge or assistant judge, he shall

fixé pour sa nomination. Dans ce cas, la nomination est faite pour une nouvelle période de douze ans.

ARTICLE IV.

Les juges de la Cour de justice arbitrale sont égaux entre eux et prennent rang d'après la date de la notification de leur nomination. La préséance appartient au plus âgé, au cas où la date est la même.

Les juges suppléants sont, dans l'exercice de leurs fonctions, assimilés aux juges titulaires. Toutefois, ils prennent rang après ceux-ci.

ARTICLE V.

Les juges jouissent des privilèges et immunités diplomatiques dans l'exercice de leurs fonctions et en dehors de leurs pays.

Avant de prendre possession de leur siège, les juges et les juges suppléants doivent, devant le Conseil administratif, prêter serment ou faire une affirmation solennelle d'exercer leurs fonctions avec impartialité et en toute conscience.

ARTICLE VI.

La Cour désigne annuellement trois juges qui forment une Délégation spéciale et trois autres destinés à les remplacer en cas d'empêchement. Ils peuvent être réélus. L'élection se fait au scrutin de liste. Sont considérés comme élus ceux qui réunissent le plus grand nombre de voix. La Délégation élit elle-même son Président, qui, à défaut d'une majorité, est désigné par le sort.

Un membre de la Délégation ne peut exercer ses fonctions quand la Puissance qui l'a nommé, ou dont il est le national, est une des Parties.

Les membres de la Délégation terminent les affaires qui leur ont été soumises, même au cas où la période pour laquelle ils ont été nommés juges serait expirée.

ARTICLE VII.

L'exercice des fonctions judiciaires est interdit au juge dans les affaires au sujet desquelles il aura, à un titre quelconque, concouru à la décision d'un Tribunal national, d'un Tribunal d'arbitrage ou d'une Commission d'enquête, ou figuré dans l'instance comme conseil ou avocat d'une Partie.

Aucun juge ne peut intervenir comme agent ou comme avocat devant la Cour de justice arbitrale ou la Cour permanente d'arbitrage, devant un Tribunal spécial d'arbitrage ou une Commission d'enquête, ni y agir pour une Partie en quelque qualité que ce soit, pendant toute la durée de son mandat.

be replaced in the manner fixed for his appointment. In that case, the appointment shall be made for a further period of twelve years.

ARTICLE IV.

The judges of the Court of Arbitral Justice are all equal among themselves, and shall rank according to the date of the notification of their appointment. Precedence shall be given to the eldest, where the date is the same.

Assistant judges shall, in the exercise of their duties, be assimilated to the ordinary judges. They shall, however, rank after the latter.

ARTICLE V.

The judges shall enjoy diplomatic privileges and immunities in the exercise of their duties and outside their respective countries.

Before entering upon their duties the judges and assistant judges shall take oath, or give a solemn undertaking before the Administrative Council, to exercise their functions with impartiality and in all conscientiousness.

ARTICLE VI.

The Court shall annually appoint three judges who form a special Delegation, and three others to replace them if they are prevented. They may be re-elected. The election shall be made by ballot on a list. Those who have the greatest number of votes shall be elected. The Delegation shall elect its own President, who, in default of a majority, shall be elected by the drawing of lots.

No member of the Delegation can exercise his duties when the Power by which he has been appointed, or of which he is a subject or citizen, is one of the parties.

The members of the Delegation shall finish the matters which have been submitted to them, even if their period of office has expired.

ARTICLE VII.

No judge may exercise judicial duties in matters in which he has in any way whatsoever taken part in the decision of a national Court, Arbitration Court, or Commission of Inquiry, or has acted in the case as counsel for or advocate of one of the parties.

No judge shall have the right to act as agent or advocate before the Court of Arbitral Justice, or the Permanent Court of Arbitration, or a special Court of Arbitration, or a Commission of Inquiry, or to act for any party in any capacity whatsoever, during his period of office.

ARTICLE VIII.

La Cour élit son Président et son Vice-Président à la majorité absolue des suffrages exprimés. Après deux tours de scrutin, l'élection se fait à la majorité relative et, en cas de partage des voix, le sort décide.

ARTICLE IX.

Les juges de la Cour de justice arbitrale reçoivent une indemnité annuelle de six mille florins néerlandais. Cette indemnité est payée à l'expiration de chaque semestre à dater du jour de la première réunion de la Cour.

Pendant l'exercice de leurs fonctions au cours des sessions ou dans les cas spéciaux prévus par la présente Convention, ils touchent une somme de cent florins par jour. Il leur est alloué, en outre, une indemnité de voyage fixée d'après les règlements de leur pays. Les dispositions du présent alinéa s'appliquent aussi aux juges suppléants remplaçant les juges.

Ces allocations, comprises dans les frais généraux de la Cour, prévus par l'Article XXXIII., sont versées par l'entremise du Bureau international institué par la Convention pour le règlement pacifique des conflits internationaux.

ARTICLE X.

Les juges ne peuvent recevoir de leur propre Gouvernement ou de celui d'une autre Puissance aucune rémunération pour des services rentrant dans leurs devoirs comme membres de la Cour.

ARTICLE XI.

La Cour de justice arbitrale a son siège à La Haye et ne peut, sauf le cas de force majeure, le transporter ailleurs.

La Délégation peut, avec l'assentiment des Parties, choisir un autre lieu pour ses réunions si des circonstances particulières l'exigent.

ARTICLE XII.

Le Conseil administratif remplit à l'égard de la Cour de justice arbitrale les fonctions qu'il remplit à l'égard de la Cour permanente d'arbitrage.

ARTICLE XIII.

Le Bureau international sert de greffe à la Cour de justice arbitrale et doit mettre ses locaux et son organisation à la disposition de la Cour. Il a la garde des archives et la gestion des affaires administratives.

ARTICLE VIII.

The Court shall elect its President and Vice-President by an absolute majority of the votes given. After two ballots, the election shall be made by the relative majority, and, in case the votes are equal, the decision shall be left to the drawing of lots.

ARTICLE IX.

The judges of the Court of Arbitral Justice shall receive an annual indemnity of six thousand Dutch florins. This indemnity shall be paid at the expiry of every six months from the date of the first meeting of the Court.

While exercising their duties during sessions or in the special cases provided for in the present Convention, they shall receive a sum of one hundred florins a day. They shall, moreover, receive an indemnity for their journey fixed by the regulations of their country. The provisions of the present paragraph shall also apply to the assistant judges replacing the judges.

These payments, included in the general expenses of the Court, stipulated by Article XXXIII., shall be paid through the International Bureau instituted by the Convention for the peaceful settlement of international conflicts.

ARTICLE X.

The judges shall not receive from their own Government or from that of any other Power any remuneration for services included in their duties as members of the Court.

ARTICLE XI.

The Court of Arbitral Justice shall sit at The Hague, and shall not, except in case of *vis major*, be transferred anywhere else.

The Delegation may, with the consent of the parties, choose another place to hold its meetings under special circumstances.

ARTICLE XII.

The Administrative Council fulfils as regards the Court of Arbitral Justice the same duties as it fulfils as regards the Permanent Court of Arbitration.

ARTICLE XIII.

The International Bureau serves as Registry to the Court of Arbitral Justice, and shall put its offices and organisation at the disposition of the Court. It shall be entrusted with the archives and with the management of administrative matters.

Le Secrétaire Général du Bureau remplit les fonctions de greffier.

Les secrétaires adjoints au greffier, les traducteurs et les sténographes nécessaires sont désignés et assermentés par la Cour.

ARTICLE XIV.

La Cour se réunit en session une fois par an. La session commence le troisième mercredi de juin et dure tant que l'ordre du jour n'aura pas été épuisé.

La Cour ne se réunit pas en session, si la Délégation estime que cette réunion n'est pas nécessaire. Toutefois, si une Puissance est partie à un litige actuellement[1] pendant devant la Cour et dont l'instruction est terminée ou va être terminée, elle a le droit d'exiger que la session ait lieu.

En cas de nécessité, la Délégation peut convoquer la Cour en session extraordinaire.

ARTICLE XV.

Un compte-rendu des travaux de la Cour serra dressé chaque année par la Délégation. Ce compte-rendu sera transmis aux Puissances contractantes par l'intermédiaire du Bureau international. Il sera communiqué aussi à tous les juges et juges suppléants de la Cour.

ARTICLE XVI.

Les juges et les juges suppléants, membres de la Cour de justice arbitrale, peuvent aussi être nommés aux fonctions de juge et de juge suppléant dans la Cour internationale des prises.

TITRE II.

Compétence et Procédure.

ARTICLE XVII.

La Cour de justice arbitrale est compétente pour tous les cas qui sont portés devant elle, en vertu d'une stipulation générale d'arbitrage ou d'un accord spécial.

ARTICLE XVIII.

La Délégation est compétente :

1°. pour juger les cas d'arbitrage visés à l'article précédent, si les Parties sont d'accord pour réclamer l'application de la procédure sommaire, réglée au Titre IV. Chapitre 4 de la Convention pour le règlement pacifique des conflits internationaux ;

The General Secretary of the Bureau shall act as Registrar.

The Registrar's secretaries and the necessary translators and stenographers shall be appointed and sworn by the Court.

ARTICLE XIV.

The Court assembles in session once a year. The session begins on the third Wednesday in June and lasts till all the questions at issue have been exhausted.

The Court shall not meet in session if the Delegation does not consider it necessary to do so. Nevertheless, if a Power is a party in a case then[1] pending before the Court the preliminary examination of which is closed or is on the point of being closed, it shall have the right to insist upon the session being held.

In case of necessity, the Delegation may call the Court together for an extraordinary session.

ARTICLE XV.

A report of the work of the Court shall be drawn up every year by the Delegation. This report shall be sent to the Contracting Powers through the International Bureau. It shall be also communicated to all the judges and assistant judges of the Court.

ARTICLE XVI.

The judges and assistant judges, members of the Court of Arbitral Justice, may also be appointed to the duties of judge and assistant judge in the international Prize Court.

TITLE II.

Competence and Procedure.

ARTICLE XVII.

The Court of Arbitral Justice shall be competent to judge all cases submitted to it, in virtue of a general arbitration stipulation or of a special agreement.

ARTICLE XVIII.

The Delegation is competent :

1. To judge arbitration cases stipulated in the preceding article, if the Parties are agreed to claim the application of the summary procedure fixed by Title IV. Chapter 4 of the Convention for the pacific settlement of international disputes ;

[1] *Actuellement* means "at present," but the sense of the French word is probably a mistranslation of some English word. The English official translation is "actually," which is not the current sense of the word.

2°. pour procéder à une enquête en vertu et en conformité du Titre III. de ladite Convention en tant que la Délégation en est chargée par les Parties agissant d'un commun accord. Avec l'assentiment des Parties et par dérogation à l'Article VII., alinéa 1, les membres de la Délégation ayant pris part à l'enquête peuvent siéger comme juges, si le litige est soumis à l'arbitrage de la Cour ou de la Délégation elle-même.

ARTICLE XIX.

La Délégation est, en outre, compétente pour l'établissement du compromis visé par l'Article LII. de la Convention pour le règlement pacifique des conflits internationaux, si les Parties sont d'accord pour s'en remettre à la Cour.

Elle est également compétente, même si la demande est faite seulement par l'une des Parties, après qu'un accord par la voie diplomatique a été vainement essayé, quand il s'agit:

1°. d'un différend rentrant dans un traité d'arbitrage général conclu ou renouvelé après la mise en vigueur de cette Convention et qui prévoit pour chaque différend un compromis, et n'exclut pour l'établissement de ce dernier ni explicitement ni implicitement la compétence de la Délégation. Toutefois, le recours à la Cour n'a pas lieu si l'autre Partie déclare qu'à son avis le différend n'appartient pas à la catégorie des questions à soumettre à un arbitrage obligatoire, à moins que le traité d'arbitrage ne confère au tribunal arbitral le pouvoir de décider cette question préalable.

2°. d'un differend provenant de dettes contractuelles réclamées à une Puissance par une autre Puissance comme dues à ses nationaux, et pour la solution duquel l'offre d'arbitrage a été acceptée. Cette disposition n'est pas appliquable si l'acceptation a été subordonnée à la condition que le compromis soit établi selon un autre mode.

ARTICLE XX.

Chacune des Parties a le droit de désigner un juge de la Cour pour prendre part, avec voix délibérative, à l'examen de l'affaire soumise à la Délégation.

Si la Délégation fonctionne en qualité de Commission d'enquête, ce mandat peut être confié à des personnes prises en dehors des juges de la Cour. Les frais de déplacement et la rétribution à allouer auxdites personnes sont fixés et supportés par les Puissances qui les ont nommés.

2. To institute an inquiry in virtue of and in conformity with Title III. of the said Convention in so far as the Delegation is entrusted therewith by the Parties acting by common consent. With the consent of the Parties and by way of exception to Article VII., § 1, the members of the Delegation having taken a part in the inquiry may act as judges, if the case is submitted to the arbitration of the Court or of the Delegation itself.

ARTICLE XIX.

The Delegation is, moreover, competent to draw up the *compromis*[1] stipulated by Article LII. of the Convention for the settlement of international disputes, if the Parties are agreed to refer it to the Court.

It is also competent, even if the application is made by only one of the Parties, when, agreement by diplomatic means having failed, it is a question of:

1. A difference comprised in the general arbitration treaty concluded or renewed after the coming into force of the present Convention, and which provides for each difference a *compromis*, and does not explicitly or implicitly exclude for the drawing up of the latter the competence of the Delegation. However, recourse to the Court shall not take place, if the other Party declares that in its opinion the difference does not belong to the kind of questions to be submitted to obligatory arbitration, unless the arbitration treaty should give the arbitral tribunal the right to decide this preliminary question.
2. A difference based upon contractual debts claimed by one Power from another as due to its subjects or citizens, and for the solution of which the offer of arbitration has been accepted. This provision is not applicable if the acceptance has been made subject to the condition that the *compromis* be drawn up in some other way.

ARTICLE XX.

Each of the Parties has the right to appoint a judge of the Court to take part, with power to join in the decision, in the examination of the matter submitted to the Delegation.

If the Delegation acts as a Commission of Inquiry, this mandate may be entrusted to persons selected outside the judges of the Court. The expenses and the remuneration to be paid to the said persons shall be fixed and borne by the Powers by which they have been appointed.

[1] See *Problems*, pp. 26, 18, on the sense of the term *compromis*, and a proposal to substitute for it in English "protocol of submission."

ARTICLE XXI.

L'accès de la Cour de justice arbitrale, instituée par la présente Convention, n'est ouvert qu'aux Puissances contractantes.

ARTICLE XXII.

La Cour de justice arbitrale suit les règles de procédure édictées par la Convention pour le règlement pacifique des conflits internationaux, sauf ce qui est prescrit par la présente Convention.

ARTICLE XXIII.

La Cour décide du choix de la langue dont elle fera usage, et des langues dont l'emploi sera autorisé devant elle.

ARTICLE XXIV.

Le Bureau international sert d'intermédiaire pour toutes les communications à faire aux juges au cours de l'instruction prévue à l'Article LXIII., alinéa 2, de la Convention pour le règlement pacifique des conflits internationaux.

ARTICLE XXV.

Pour toutes les notifications à faire, notamment aux Parties, aux témoins et aux experts, la Cour peut s'adresser directement au Gouvernement de la Puissance sur le territoire de laquelle la notification doit être effectuée. Il en est de même s'il s'agit de faire procéder à l'établissement de tout moyen de preuve.

Les requêtes adressées à cet effet ne peuvent être refusées que si la Puissance requise les juge de nature à porter atteinte à sa souveraineté ou à sa sécurité. S'il est donné suite à la requête, les frais ne comprennent que les dépenses d'exécution réellement effectuées.

La Cour a également la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle elle a son siège.

Les notifications à faire aux Parties dans le lieu où siège la Cour peuvent être exécutées par le Bureau international.

ARTICLE XXVI.

Les débats sont dirigés par le Président ou le Vice-Président et, en cas d'absence ou d'empêchement de l'un et de l'autre, par le plus ancien des juges présents.

Le juge nommé par une des Parties ne peut siéger comme Président.

ARTICLE XXI.

Access to the Court of Arbitral Justice instituted by the present Convention is free to the Contracting Powers only.

ARTICLE XXII.

The Court of Arbitral Justice shall follow the rules of procedure set out by the Convention for the peaceful settlement of international disputes, except where otherwise prescribed by the present Convention.

ARTICLE XXIII.

The Court shall decide upon the choice of the language to be used, and of the languages the use of which shall be authorised before it.

ARTICLE XXIV.

The International Bureau shall serve as intermediary for all communications to be made to the judges during the examination of the affair, provided for by Article LXIII., § 2, of the Convention for the peaceful settlement of international disputes.

ARTICLE XXV.

For all notifications to be made, in particular to the Parties, witnesses and experts, the Court may address itself directly to the Government of the Power upon whose territory the notification is to be effected. The same shall apply where the procuring of evidence is concerned.

Requests addressed to this effect can only be refused where the Power requested considers them prejudicial to its sovereignty or security. If effect is given to the request, the expenses shall only include the costs of execution really incurred.

The Court may also have recourse to the medium of the Power upon whose territory it sits.

The notifications to be made to the Parties in the place where the Court is sitting may be effected by the International Bureau.

ARTICLE XXVI.

The arguments shall be directed by the President and Vice-President and, in case of absence or prevention of one or the other, by the eldest judge present.

A judge appointed by one of the Parties cannot act as President.

ARTICLE XXVII.

Les délibérations de la Cour ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité des juges présents. Si la Cour siège en nombre pair et qu'il y ait partage des voix, la voix du dernier des juges, dans l'ordre de préséance établi d'après l'Aarticle IV., alinéa 1, ne sera pas comptée.

ARTICLE XXVIII.

Les arrêts de la Cour doivent être motivés. Ils mentionnent les noms des juges qui y ont participé ; ils sont signés par le Président et par le greffier.

ARTICLE XXIX.

Chaque Partie supporte ses propres frais et une part égale des frais spéciaux de l'instance.

ARTICLE XXX.

Les dispositions des Articles XXI. à XXIX. sont appliquées par analogie dans la procédure devant la Délégation.

Lorsque le droit d'adjoindre un membre à la Délégation n'a été exercé que par une seule Partie, la voix du membre adjoint n'est pas comptée, s'il y a partage de voix.

ARTICLE XXXI.

Les frais généraux de la Cour sont supportés par les Puissances contractantes.

Les Conseil administratif s'adresse aux Puissances pour obtenir les fonds nécessaires au fonctionnement de la Cour.

ARTICLE XXXII.

La Cour fait elle-même son règlement d'ordre intérieur qui doit être communiqué aux Puissances contractantes.

Après la ratification de la présente Convention, la Cour se réunira aussitôt que possible, pour élaborer ce règlement, pour élire le Président et le Vice-Président ainsi que pour désigner les membres de la Délégation.

ARTICLE XXXIII.

La Cour peut proposer des modifications à apporter aux dispositions de la présente Convention qui concernent la procédure. Ces propositions sont communiquées par l'intermédiaire du Gouvernement des Pays-Bas aux Puissances contractantes qui se concerteront sur la suite à y donner.

ARTICLE XXVII.

The deliberations of the Court shall take place with closed doors, and shall remain secret.

All decisions shall be taken by the majority of the judges present. If the Court sits in even number and the votes are equally divided, the vote of the last of the judges, in the order of precedence as set out in Article IV., § 1, shall not be counted.

ARTICLE XXVIII.

The grounds of the decisions of the Court shall be therein given. The decisions shall mention the names of the judges who have taken part therein, and shall be signed by the President and by the Registrar.

ARTICLE XXIX.

Each party shall bear its own costs and an equal part of the special expenses of the procedure.

ARTICLE XXX.

The provisions of Articles XXI. to XXIX. are applied by analogy in the procedure before the Delegation.

When the right to adjoin a member to the Delegation has only been exercised by one Party, the vote of the assistant member shall not be counted, if the votes are equal on both sides.

ARTICLE XXXI.

The general expenses of the Court shall be supported by the Contracting Powers.

The Administrative Council shall apply to the Powers to obtain the funds necessary for the working of the Court.

ARTICLE XXXII.

The Court shall itself make its internal regulations, which shall be communicated to the Contracting Powers.

After ratification of the present Convention, the Court shall assemble as soon as possible, to draw up these regulations, to elect the President and Vice-President, as well as appoint the members of the Delegation.

ARTICLE XXXIII.

The Court may propose modifications to the provisions of the present Convention concerning procedure. These propositions shall be communicated through the Netherland Government to the Contracting Powers, who shall decide what effect shall be given to them.

Titre III.

Dispositions Finales.

ARTICLE XXXIV.

La présente Convention sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à La Haye.

Il sera dressé du dépôt de chaque ratification un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances signataires.

ARTICLE XXXV.

La Convention entrera en vigueur six mois après sa ratification.

Elle aura une durée de douze ans, et sera renouvelée tacitement de douze ans en douze ans, sauf dénonciation.

La dénonciation devra être notifiée, au moins deux ans avant l'expiration de chaque période, au Gouvernement des Pays-Bas qui en donnera connaissance aux autres Puissances.

La dénonciation ne produira effet qu'à l'égard de la Puissance qui l'aura notifiée. La Convention restera exécutoire dans les rapports entre les autres Puissances.

Title III.

Final Provisions.

ARTICLE XXXIV.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

Minutes shall be recorded of the deposit of each ratification, of which a certified copy shall be communicated through the diplomatic channel to all the signatory Powers.

ARTICLE XXXV.

The Convention shall come into force six months after the date of its ratification.

It shall be valid for a period of twelve years, and shall be tacitly renewed from twelve to twelve years, unless it be denounced.

Denunciation must be notified at least two years before the expiry of each period to the Netherland Government, which shall communicate it to the other Powers.

Denunciation shall only have effect as regards the Power who has notified. The Convention shall remain in force among the other Powers.

(1) CONVENTION FOR THE PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES

(Convention pour le règlement pacifique des conflits internationaux)

(NOTE.—*The passages between square brackets are the parts of the Convention of* 1899 *which have been suppressed. Those in italics are the additions and alterations made by the Convention of* 1907)

(*Noms des Hautes Parties Contractantes.*)

Animés de la ferme volonté de concourir au maintien de la paix générale ;

Résolus à favoriser de tous leurs efforts le règlement amiable des conflits internationaux ;

Reconnaissant la solidarité qui unit les membres de la société des nations civilisées ;

Voulant étendre l'empire du droit et fortifier le sentiment de la justice internationale ;

Convaincus que l'institution permanente d'une juridiction arbitrale, accessible à tous, au sein des Puissances indépendantes peut contribuer efficacement à ce résultat ;

Considérant les avantages d'une organisation générale et régulière de la procédure arbitrale ;

Estimant avec l'auguste Initiateur de la Conférence Internationale de la Paix qu'il importe de consacrer dans un accord international des principes d'équité et de droit sur lesquels reposent la sécurité des États et le bien-être des peuples ;

Désireux, dans ce but, de mieux assurer le fonctionnement pratique des Commissions d'enquête et des tribunaux d'arbitrage et de faciliter le recours à la justice arbitrale lorsqu'il s'agit de litiges de nature à comporter une procédure sommaire ;

Ont jugé nécessaire de reviser sur certains points et de compléter l'œuvre de la Première Conference de la Paix pour règlement pacifique des conflits internationaux ;

[Désirant conclure une Convention à cet effet ont nommé pour leurs Plénipotentiaires, savoir :]

Les Hautes Parties Contractantes ont résolu de conclure une nouvelle Convention à cet effet et ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après [s'être communiqué] *avoir déposé* leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus [des dispositions suivantes] *de ce qui suit* :

TITRE I.—*Du Maintien de la Paix générale.*

ARTICLE I.

En vue de prévenir autant que possible le recours à la force dans les rapports entre les États, les Puissances [Signataires] *Contractantes* conviennent d'employer tous leurs efforts pour assurer le règlement pacifique des différends internationaux.

(*Names of the High Contracting Parties.*)

Animated by a strong desire to concert for the maintenance of general peace ;

Resolved to second by their best efforts the friendly settlement of international disputes ;

Recognising the solidarity which unites the members of the society of civilised nations ;

Desirous of extending the empire of law, and of strengthening the appreciation of international justice ;

Convinced that the permanent institution of a Court of Arbitration, accessible to all, in the midst of the independent Powers, will contribute effectively to this result ;

Having regard to the advantages attending the general and regular organisation of arbitral procedure ;

Sharing the opinion of the august Initiator of the International Peace Conference that it is expedient to record in an International Agreement the principles of equity and right on which are based the security of States and the welfare of peoples ;

Desirous for this purpose of better assuring the practical working of commissions of inquiry and courts of arbitration and to facilitate recourse to arbitration when matters in variance are concerned which can be dealt with by a summary procedure ;

Have thought it necessary to revise on certain points and to complete the work of the First Peace Conference for the pacific settlement of international disputes.

[Being desirous of concluding a Convention to this effect, have appointed as their Plenipotentiaries : &c., &c., &c.]

The High Contracting Powers have resolved to enter into a new Convention for this purpose, and have named as their Plenipotentiaries :

(*Names and Description of the Plenipotentiaries.*)

Who, after [communication of] *having deposited* their full powers, found in good and due form, have agreed [on the following provisions] *as follows* :

TITLE I.— *On the Maintenance of General Peace.*

ARTICLE I.

With a view to obviating, as far as possible, recourse to force in the relations between States, the [Signatory] *Contracting* Powers agree to use their best efforts to ensure the pacific settlement of international differences.

TITRE II.—*Des Bons Offices et de la Médiation.*

ARTICLE II.

En cas de dissentiment grave ou de conflit, avant d'en appeler aux armes, les Puissances [Signataires] *Contractantes* conviennent d'avoir recours, en tant que les circonstances le permettront, aux bons offices ou à la médiation d'une ou de plusieurs Puissances amies.

ARTICLE III.

Indépendamment de ce recours, les Puissances [Signataires] *Contractantes* jugent utile *et désirable* qu'une ou plusieurs Puissances étrangères au conflit offrent de leur propre initiative, en tant que les circonstances s'y prêtent, leurs bons offices ou leur médiation aux États en conflit.

Le droit d'offrir les bons offices ou la médiation appartient aux Puissances étrangères au conflit, même pendant le cours des hostilités.

L'exercice de ce droit ne peut jamais être considéré par l'une ou l'autre des Parties en litige comme un acte peu amical.

ARTICLE IV.

Le rôle du médiateur consiste à concilier les prétensions opposées et à apaiser les ressentiments qui peuvent s'être produits entre les États en conflit.

ARTICLE V.

Les fonctions du médiateur cessent du moment où il est constaté, soit par l'une des Parties en litige, soit par le médiateur lui même, que les moyens de conciliation proposés par lui ne sont pas acceptés.

ARTICLE VI.

Les bons offices et la médiation, soit sur le recours des Parties en conflit, soit sur l'initiative des Puissances étrangères au conflit, ont exclusivement le caractère de conseil et n'ont jamais force obligatoire.

ARTICLE VII.

L'acceptation de la médiation ne peut avoir pour effet, sauf Convention contraire, d'interrompre, de retarder, ou d'entraver la mobilisation et autres mesures préparatoires à la guerre.

Si elle intervient après l'ouverture des hostilités, elle n'interrompt pas, sauf Convention contraire, les opérations militaires en cours.

TITLE II.—*On Good Offices and Mediation.*

ARTICLE II.

In case of serious disagreement or conflict, before an appeal to arms, the [Signatory] *Contracting* Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

ARTICLE III.

Independently of this recourse, the [Signatory] *Contracting* Powers consider it is expedient *and desirable* that one or more Powers, strangers to the dispute, should, on their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers, strangers to the dispute, have the right to offer good offices or mediation, even during the course of hostilities.

The exercise of this right can never be regarded by one or the other of the parties in conflict as an unfriendly act.

ARTICLE IV.

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

ARTICLE V.

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

ARTICLE VI.

Good offices and mediation, either at the request of the parties at variance, or on the initiative of Powers, strangers to the dispute, have exclusively the character of advice, and never have binding force.

ARTICLE VII.

The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilisation or other measures of preparation for war.

If mediation occurs after the commencement of hostilities, it causes no interruption to the military operations in progress, unless there be an agreement to the contrary.

ARTICLE VIII.

Les Puissances [Signataires] *Contractantes* sont d'accord pour recommander l'application, dans les circonstances qui le permettent, d'une médiation spéciale sous la forme suivante :—

En cas de différend grave compromettant la paix, les États en conflit choisissent respectivement une Puissance à laquelle ils confient la mission d'entrer en rapport direct avec la Puissance choisie d'autre part, à l'effet de prévenir la rupture des relations pacifiques.

Pendant la durée de ce mandat dont le terme, sauf stipulation contraire, ne peut excéder trente jours, les États en litige cessent tout rapport direct au sujet du conflit, lequel est considéré comme déféré exclusivement aux Puissances Médiatrices. Celles-ci doivent appliquer tous leurs efforts à régler le différend.

En cas de rupture effective des relations pacifiques, ces Puissances demeurent chargées de la mission commune de profiter de toute occasion pour rétablir la paix.

TITRE III.—*Des Commissions Internationales d'Enquête.*

ARTICLE IX.

Dans les litiges d'ordre international n'engageant ni l'honneur ni des intérêts essentiels et provenant d'une divergence d'appréciation sur des points de fait, les Puissances [Signataires] *Contractantes* jugent utile que les Parties qui n'auraient pu se mettre d'accord par les voies diplomatiques instituent, en tant que les circonstances le permettront, une Commission Internationale d'Enquête chargée de faciliter la solution de ces litiges en éclaircissant, par un examen impartial et consciencieux, les questions de fait.

[ARTICLE X.

Les Commissions Internationales d'Enquête sont constituées par Convention spéciale entre les Parties en litige.

La Convention d'Enquête précise les faits à examiner et l'étendue des pouvoirs des Commissaires.

Elle règle la procédure.

L'enquête a lieu contradictoirement.

La forme et les délais à observer, en tant qu'ils ne sont pas fixés par la Convention d'Enquête, sont déterminés par la Commission elle-même.]

[ARTICLE XI.

Les Commissions Internationales d'Enquête sont formées sauf stipulation contraire, de la manière déterminée par l'Article XXXII. de la présente Convention.]

ARTICLE VIII.

The [Signatory] *Contracting* Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form :—

In case of a serious difference endangering the peace, the States at variance choose respectively a Power, to whom they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in conflict cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, who must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

TITLE III.—*On International Commissions of Inquiry.*

ARTICLE IX.

In differences of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the [Signatory] *Contracting* Powers recommend that the parties, who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these differences by elucidating the facts by means of an impartial and conscientious investigation.

[ARTICLE X.

The International Commissions of Inquiry are constituted by special agreement between the parties in conflict.

The Convention for an inquiry defines the facts to be examined and the extent of the Commissioners' powers.

It settles the procedure.

On the inquiry both sides must be heard.

The form and the periods to be observed, if not stated in the Inquiry Convention, are decided by the Commission itself.]

[ARTICLE XI.

The International Commissions of Inquiry are formed, unless otherwise stipulated, in the manner fixed by Article XXXII. of the present Convention.]

[ARTICLE XII.

Les Puissances en litige s'engagent à fournir à la Commission Internationale d'Enquête, dans la plus large mesure qu'Elles jugeront possible, tous les moyens et toutes les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.]

[ARTICLE XIII.

La Commission Internationale d'Enquête présente aux Puissances en litige son Rapport signé par tous les membres de la Commission.]

[ARTICLE XIV.

Le Rapport de la Commission Internationale d'Enquête, limité à la constatation des faits, n'a nullement le caractère d'une sentence arbitrale. Il laisse aux Puissances en litige une entière liberté pour la suite à donner à cette constatation.]

ARTICLE X.

Les Commissions internationales d'enquête sont constituées par convention spéciale entre les Parties en litige.

La convention d'enquête précise les faits à examiner; elle détermine le mode et le délai de formation de la Commission et l'étendue des pouvoirs des commissaires.

Elle détermine également, s'il y a lieu, le siège de la Commission et la faculté de se déplacer, la langue dont la Commission fera usage et celles dont l'emploi sera autorisé devant elle, ainsi que la date à laquelle chaque Partie devra déposer son exposé des faits, et généralement toutes les conditions dont les Parties sont convenues.

Si les Parties jugent nécessaire de nommer des assesseurs, la convention d'enquête détermine le mode de leur désignation et l'étendue de leurs pouvoirs.

ARTICLE XI.

Si la convention d'enquête n'a pas désigné le siège de la Commission, celle-ci siègera à La Haye.

Le siège une fois fixé ne peut être changé par la Commission qu'avec l'assentiment des Parties.

Si la convention d'enquête n'a pas déterminé les langues à employer, il en est décidé par la Commission.

ARTICLE XII.

Sauf stipulation contraire, les Commissions d'enquête sont formées de la manière déterminée par les Articles XLV. et LVII. de la présente Convention.

[ARTICLE XII.

The Powers in dispute engage to supply the International Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to be completely acquainted with, and to accurately understand, the facts in question.]

[ARTICLE XIII.

The International Commission of Inquiry communicates its Report to the conflicting Powers, signed by all the members of the Commission.]

[ARTICLE XIV.

The Report of the International Commission of Inquiry is limited to a statement of facts, and has in no way the character of an Arbitral Award. It leaves the conflicting Powers entire freedom as to the effect to be given to this statement.]

ARTICLE X.

International Commissions of Inquiry are constituted by a special convention between the Parties in conflict.

The convention of inquiry states precisely the facts to be examined; it determines the mode of and period for the constitution of the Commission, and the extent of the powers of the commissioners.

It also states, should the case arise, the place where the Commission shall sit, and the power to change the place, the language which it shall use, and those the use of which shall be authorised, as well as the date at which each Party shall lodge its statement of facts and, in general, all the conditions to which the Parties have agreed.

If the Parties consider it necessary to name assessors, the convention of inquiry determines how they shall be chosen and the extent of their powers.

ARTICLE XI.

If the convention of inquiry has not appointed the place of meeting of the Commission, the latter shall sit at The Hague.

Once the place has been fixed, it cannot be changed by the Commission without the consent of the Parties.

If the convention of inquiry has not determined what languages are to be employed, this shall be determined by the Commission.

ARTICLE XII.

Unless there is a stipulation to the contrary, the Commissions of Inquiry shall be formed as specified in Articles XLV. and LVII. of this Convention.

ARTICLE XIII.

En cas de décès, de démission ou d'empêchement, pour quelque cause que ce soit, de l'un des commissaires, ou éventuellement[1] *de l'un des assesseurs, il est pourvu à son remplacement selon le mode fixé pour sa nomination.*

ARTICLE XIV.

Les Parties ont le droit de nommer auprès de la Commission d'enquête des agents spéciaux avec la mission de Les représenter et de servir d'intermédiaires entre Elles et la Commission.

Elles sont, en outre, autorisées à charger des conseils ou avocats nommés par elles, d'exposer et de soutenir leurs intérêts devant la Commission.

ARTICLE XV.

Le Bureau International de la Cour permanente d'arbitrage sert de greffe aux Commissions qui siègent à La Haye, et mettra ses locaux et son organisation à la disposition des Puissances Contractantes pour le fonctionnement de la Commission d'enquête.

ARTICLE XVI.

Si la Commission siège ailleurs qu'à La Haye, elle nomme un Secrétaire Général dont le bureau lui sert de greffe.

Le greffe est chargé sous l'autorité du Président, de l'organisation matérielle des séances de la Commission, de la rédaction des procès-verbaux et, pendant le temps de l'enquête, de la garde des archives qui seront ensuite versées au Bureau International de La Haye.

ARTICLE XVII.

En vue de faciliter l'institution et le fonctionnement des Commissions d'enquête, les Puissances Contractantes recommandent les règles suivantes qui seront applicables à la procédure d'enquête en tant que les Parties n'adopteront pas d'autres règles.

ARTICLE XVIII.

La Commission règlera les détails de la procédure non prévus dans la convention spéciale d'enquête ou dans la présente Convention, et procèdera à toutes les formalités que comporte l'administration des preuves.

ARTICLE XIX.

L'enquête a lieu contradictoirement.

Aux dates prévues, chaque Partie communique à la Commission et à l'autre Partie les exposés des faits, s'il y a lieu, et, dans tous les cas, les actes, pièces et documents qu'Elle juge utiles à la découverte de la vérité, ainsi que la liste des témoins et des experts qu'elle désire faire entendre.

ARTICLE XIII.

In case of death, resignation, or prevention, from any cause whatsoever, of one of the commissioners, or contingently[1] *of one of the assessors, he shall be replaced in the same manner as he was appointed.*

ARTICLE XIV.

The Parties have the right to appoint special agents in connection with the Commission of Inquiry, whose duty it is to represent them and serve as intermediaries between them and the Commission.

They are, in addition, entitled to instruct counsel or advocates appointed by the Parties, to state and argue the case before the Commission.

ARTICLE XV.

The International Bureau of the permanent Court of arbitration shall serve as a Registry for the Commissions which shall sit at The Hague, and shall place its offices and organisation at the disposal of the Contracting Parties for the operations of the Commission of Inquiry.

ARTICLE XVI.

If the Commission sits elsewhere than at The Hague, it appoints a General Secretary whose offices shall serve as a Registry.

The Registry has charge, subject to the President's authority, of the material organisation of the sittings of the Commission, the drawing up of the minutes, and during the inquiry the keeping of the archives which shall afterwards be handed over to the International Bureau at The Hague.

ARTICLE XVII.

In order to facilitate the institution and the working of the Commissions of Inquiry, the Contracting Powers recommend the following rules which shall be applicable to the procedure of inquiry, in so far as the Parties do not adopt other rules.

ARTICLE XVIII.

The Commission shall regulate the details of procedure which have not been provided for by the special convention of inquiry or in the present Convention, and shall fulfil all the formalities relating to the taking of evidence.

ARTICLE XIX.

The inquiry shall take place in the presence of both Parties.

On dates fixed beforehand, each party shall communicate to the Commission and to the other Party the statements of fact, if necessary, and in all cases the records, papers, and documents which it considers useful for ascertaining the facts, as well as the list of witnesses and experts it desires to be heard.

[1] The draftsman, no doubt, meant by *éventuellement*, restricted to this connection: also assessors, if assessors there be.

ARTICLE XX.

La Commission a la faculté, avec l'assentiment des Parties, de se transporter momentanément sur les lieux où elle juge utile de recourir à ce moyen d'information ou d'y déléguer un ou plusieurs de ses membres. L'autorisation de l'État sur le territoire duquel il doit être procédé à cette information devra être obtenue.

ARTICLE XXI.

Toutes constatations matérielles, et toutes visites des lieux doivent être faites en présence des agents et conseils des Parties ou eux dûment appelés.

ARTICLE XXII.

La Commission a le droit de solliciter de l'une ou l'autre Partie telles explications ou informations qu'elle juge utiles.

ARTICLE XXIII.

Les Parties s'engagent à fournir à la Commission d'enquête, dans la plus large mesure qu'Elles jugeront possible, tous les moyens et toutes les facilités nécessaires pour la connaissance complète et l'appréciation exacte des faits en question.

Elles s'engagent à user des moyens dont Elles disposent d'après leur législation intérieure, pour assurer la comparution des témoins ou des experts se trouvant sur leur territoire et cités devant la Commission.

Si ceux-ci ne peuvent comparaître devant la Commission, Elles feront procéder à leur audition devant leurs autorités compétentes.

ARTICLE XXIV.

Pour toutes les notifications que la Commission aurait à faire sur le territoire d'une tierce Puissance Contractante, la Commission s'adressera directement au Gouvernement de cette Puissance. Il en sera de même s'il s'agit de faire procéder sur place à l'établissement de tous moyens de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après Sa législation intérieure. Elles ne peuvent être refusées que si cette Puissance les juge de nature à porter atteinte à Sa souveraineté ou à Sa sécurité.

La Commission aura aussi toujours la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle elle a son siège.

ARTICLE XXV.

Les témoins et les experts sont appelés à la requête des Parties ou d'office par la Commission, et, dans tous les cas, par l'intermédiaire du Gouvernement de l'État sur le territoire duquel ils se trouvent.

ARTICLE XX.

The Commission may, with the consent of the Parties, temporarily move to the spot where it considers it useful to resort to this method of obtaining information, or it may delegate one or more of its members to go there. It must obtain the authorisation of the State on whose territory it proposes to obtain such information.

ARTICLE XXI.

All verifications on the spot and visits to places shall be made in the presence of the agents and counsel of the Parties or after they have been duly cited.

ARTICLE XXII.

The Commission has the right to require from one or the other Party such explanations or information as it may deem useful.

ARTICLE XXIII.

The Parties undertake to furnish the Commission of Inquiry, to the fullest extent they consider possible, with all necessary means and facilities to obtain complete knowledge and an exact appreciation of the facts at issue.

They undertake to make use of the means at their disposal in accordance with their internal legislation, to ensure the attendance of witnesses or experts, on their territory, and cited to appear before the Commission.

If such witnesses and experts cannot appear before the Commission, they will have their evidence taken before their own proper authorities.

ARTICLE XXIV.

For the purpose of any notifications which the Commission may have to make on the territory of a third Contracting Power, the Commission shall address itself directly to the Government of that Power. The same applies where evidence has to be taken on the spot.

Requests addressed for this purpose shall be carried out in accordance with the methods provided by the domestic legislation of the Power applied to. They can only be refused if this Power consider them of a nature injurious to its sovereignty or security.

The Commission shall also at all times have power of recourse to the intermediary of the Power on whose territory it may be holding its sittings.

ARTICLE XXV.

Witnesses and experts are cited on application by the Parties, or ex officio *by the Commission, and, in all cases, through the intermediary of the Government of the State on whose territory they may be.*

Les témoins sont entendus, successivement et séparément, en présence des agents et des conseils et dans un ordre à fixer par la Commission.

ARTICLE XXVI.

L'interrogatoire des témoins est conduit par le Président.

Les membres de la Commission peuvent néanmoins poser à chaque témoin les questions qu'ils croient convenables pour éclaircir ou compléter sa déposition, ou pour se renseigner sur tout ce qui concerne le témoin dans les limites nécessaires à la manifestation de la vérité.

Les agents et les conseils des Parties ne peuvent interrompre le témoin dans sa déposition, ni lui faire aucune interpellation directe, mais peuvent demander au Président de poser au témoin telles questions complémentaires qu'ils jugent utiles.

ARTICLE XXVII.

Le témoin doit déposer sans qu'il lui soit permis de lire aucun projet écrit. Toutefois, il peut être autorisé par le Président à s'aider de notes ou documents si la nature des faits rapportés en nécessite l'emploi.

ARTICLE XXVIII.

Procès-verbal de la déposition du témoin est dressé séance tenante et lecture en est donnée au témoin. Le témoin peut y faire tels changements et additions que bon lui semble et qui seront consignés à la suite de sa déposition.

Lecture faite au témoin de l'ensemble de sa déposition, le témoin est requis de signer.

ARTICLE XXIX.

Les agents sont autorisés, au cours ou à la fin de l'enquête, à présenter par écrit à la Commission et à l'autre Partie tels dires, réquisitions ou résumés de fait, qu'ils jugent utiles à la découverte de la vérité.

ARTICLE XXX.

Les délibérations de la Commission ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité des membres de la Commission.

Le refus d'un membre de prendre part au vote doit être constaté dans le procès-verbal.

ARTICLE XXXI.

Les séances de la Commission ne sont publiques et les procès-verbaux et documents de l'enquête ne sont rendus publics qu'en vertu d'une décision de la Commission, prise avec l'assentiment des Parties.

The witnesses are heard one after the other and separately, in the presence of the agents and counsel, and in the order fixed by the Commission.

ARTICLE XXVI.

The examination of witnesses is conducted by the President.

The members of the Commission may, nevertheless, put to each witness such questions as they may think proper, to explain or complete his deposition, or to obtain information on anything relating to the witness within the necessary limits for the ascertaining of the truth.

The agents and counsel of the Parties may not interrupt a witness in his deposition, nor address any question to him directly, but may request the President to put to the witness such complementary questions as they may deem necessary.

ARTICLE XXVII.

The witness must make his deposition without being allowed to read from any draft. He may, however, be authorised by the President to make use of notes or documents if the nature of the facts deposed to necessitate their use.

ARTICLE XXVIII.

A minute of the deposition of the witness is drawn up during the sitting, and is read over to the witness. The witness may make such alterations and additions as he may think fit, and they shall be added at the foot of his deposition.

When the whole of the deposition is read over to the witness, he is requested to sign it.

ARTICLE XXIX.

The agents are authorised, during or after the inquiry, to submit in writing to the Commission and to the other Party, such statements, requisitions, or summaries of fact, as they may deem fit for the ascertaining of the truth.

ARTICLE XXX.

The deliberations of the Commission shall take place with closed doors and shall be secret.

Every decision shall be by the majority of the members of the Commission.

The refusal of a member to take part in the voting shall be mentioned in the minute.

ARTICLE XXXI.

The sittings of the Commission are only public, and the minutes and documents of the inquiry are only made public by virtue of a decision of the Commission, taken with the consent of the Parties.

ARTICLE XXXII.

Les Parties ayant présenté tous les éclaircissements et preuves, tous les témoins ayant été entendus, le Président prononce la clôture de l'enquête et la Commission s'ajourne pour délibérer et rédiger son rapport.

ARTICLE XXXIII.

Le rapport est signé par tous les membres de la Commission.

Si un des membres refuse de signer, mention en est faite ; le rapport reste néanmoins valable.

ARTICLE XXXIV.

Le rapport de la Commission est lu en séance publique, les agents et les conseils des Parties présents ou dûment appelés.

Un exemplaire du rapport est remis à chaque Partie.

ARTICLE XXXV.

Le rapport de la Commission, limité à la constatation des faits, n'a nullement le caractère d'une sentence arbitrale. Il laisse aux Parties une entière liberté pour la suite à donner à cette constatation.

ARTICLE XXXVI.

Chaque Partie supporte ses propres frais et une part égale des frais de la Commission.

TITRE IV.—*De l'Arbitrage International.*

Chapitre I.—*De la Justice Arbitrale.*

ARTICLE [XV.] XXXVII.

L'arbitrage international a pour objet le règlement de litiges entre les États par des Juges de leur choix et sur la base du respect du droit. *Le recours à l'arbitrage implique l'engagement de se soumettre de bonne foi à la sentence.*

ARTICLE [XVI.] XXXVIII.

Dans les questions d'ordre juridique, et en premier lieu dans les questions d'interprétation ou d'application des Conventions Internationales, l'arbitrage est reconnu par les Puissances [Signataires] *Contractantes* comme le moyen le plus efficace et en même temps le plus équitable de régler les litiges qui n'ont pas été résolus par les voies diplomatiques.

ARTICLE [XVII.] XXXIX.

La Convention d'Arbitrage est conclue pour des contestations déjà nées ou pour des contestations éventuelles.

Elle peut concerner tout litige ou seulement les litiges d'une catégorie déterminée.

ARTICLE XXXII.

The Parties having submitted all explanations and evidence, all witnesses having been heard, the President pronounces the inquiry closed, and the Commission adjourns to deliberate and to draw up its report.

ARTICLE XXXIII.

The report is signed by all the members of the Commission.

If any member refuses to sign it, mention is made thereof; the report, nevertheless, remains valid.

ARTICLE XXXIV.

The report of the Commission is read at a public sitting, the agents and counsel of the Parties being present or duly cited.

A copy of the report is forwarded to each Party.

ARTICLE XXXV.

The report of the Commission, limited to an ascertaining of the facts, has not the character of an arbitral award. It allows the Parties full liberty in respect of giving effect to such ascertainment.

ARTICLE XXXVI.

Each Party shall bear its own costs and an equal share of the expenses of the Commission.

TITLE IV.—*On International Arbitration.*

Chapter I.—*On Arbitral Justice.*

ARTICLE [XV.] XXXVII.

International arbitration has for its object the settlement of differences between States by judges of their own choice, and on the basis of respect for law. *Recourse to arbitration implies an undertaking to submit in good faith to the Award.*

ARTICLE [XVI.] XXXVIII.

In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognised by the [Signatory] *Contracting* Powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

ARTICLE [XVII.] XXXIX.

The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute, or only disputes of a certain category.

[ARTICLE XVIII.

La Convention d'Arbitrage implique l'engagement de se soumettre de bonne foi à la sentence arbitrale.]

ARTICLE [XIX.] XL.

Indépendamment des Traités généraux ou particuliers qui stipulent actuellement l'obligation du recours à l'arbitrage pour les Puissances [Signataires] *Contractantes*, ces Puissances se réservent de conclure [soit avant la ratification du présent Acte, soit postérieurement], des accords nouveaux, généraux, ou particuliers, en vue d'étendre l'arbitrage obligatoire à tous les cas qu'elles jugeront possible de lui soumettre.

Chapitre II.—*De la Cour Permanente d'Arbitrage.*

[ARTICLE XX.] XLI.

Dans le but de faciliter le recours immédiat à l'arbitrage pour les différends internationaux qui n'ont pu être réglés par la voie diplomatique, les Puissances [Signataires] *Contractantes* s'engagent à [organiser une] *maintenir telle qu'elle a été établie par la première Conférence de la Paix, la* Cour Permanente d'Arbitrage, accessible en tout temps et fonctionnant, sauf stipulation contraire des Parties, conformément aux règles de procédure insérées dans la présente Convention.

ARTICLE [XXI.] XLII.

La Cour Permanente [sera] *est* compétente pour tous les cas d'arbitrage, á moins qu'il n'y ait entente entre les Parties pour l'établissement d'une juridiction spéciale.

ARTICLE [XXII.] XLIII.

La Cour Permanente a son siège à La Haye.

Un Bureau International [établi à La Haye] sert de greffe á la Cour.

[Ce Bureau] *Il* est l'intermédiaire des communications relatives aux réunions de celle-ci.

Il a la garde des archives et la gestion de toutes les affaires administratives.

Les Puissances [Signataires] *Contractantes* s'engagent à communiquer au Bureau [International de La Haye], *aussitôt que possible*, une copie certifiée conforme de toute stipulation d'arbitrage intervenue entre elles et de toute sentence arbitrale les concernant et rendue par des juridictions spéciales.

Elles s'engagent à communiquer de même au Bureau, les lois, règlements, et documents constatant éventuellement l'exécution des sentences rendues par la Cour.

[ARTICLE XVIII.

The Arbitration Convention implies the engagement to submit loyally to the Award.]

ARTICLE [XIX.] XL.

Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the [Signatory] *Contracting* Powers, these Powers reserve to themselves the right of concluding [either before the ratification of the present Act or later], new Agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

Chapter II.—*On the Permanent Court of Arbitration.*

ARTICLE [XX.] XLI.

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the [Signatory] *Contracting* Powers undertake to [organise a] *maintain as established by the First Peace Conference, the* permanent Court of Arbitration, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the Rules of Procedure inserted in the present Convention.

ARTICLE [XXI.] XLII.

The permanent Court [shall be] *is* competent for all arbitration cases, unless the parties agree to institute a special Tribunal.

ARTICLE [XXII.] XLIII.

The permanent Court has its seat at The Hague.

An International Bureau [established at The Hague] serves as record office for the Court.

[This Bureau] *It* is the channel for communications relative to the meetings of the Court.

It has the custody of the archives, and conducts all the administrative business.

The [Signatory] *Contracting* Powers undertake to communicate to the International Bureau [at The Hague], *as soon as possible*, a duly certified copy of any conditions of arbitration arrived at between them, and of any award concerning them delivered by special Tribunals.

They undertake also to communicate to the Bureau the Laws, Regulations, and documents eventually showing the execution of the awards given by the Court.

ARTICLE [XXIII.] XLIV.

Chaque Puissance [Signataire] *Contractante* désignera [dans les trois mois qui suivront la ratification par elle du présent Acte], quatre personnes au plus, d'une compétence reconnue dans les questions de droit international, jouissant de la plus haute considération morale et disposées à accepter les fonctions d'arbitres.

Les personnes ainsi désignées s[er]*ont* inscrites, au titre de membres de la Cour, sur une liste qui sera notifiée à toutes les Puissances Signataires par les soins du Bureau.

Toute modification à la liste des arbitres est portée, par les soins du Bureau, à la connaissance des Puissances [Signataires] *Contractantes*.

Deux ou plusieurs Puissances peuvent s'entendre pour la désignation en commun d'un ou de plusieurs membres.

La même personne peut être désignée par des Puissances différentes.

Les membres de la Cour sont nommés pour un terme de six ans. Leur mandat peut être renouvelé.

En cas de décès ou de retraite d'un membre de la Cour, il est pourvu á son remplacement selon le mode fixé pour sa nomination, *et pour une nouvelle période de six ans.*

ARTICLE [XXIV.] XLV.

Lorsque les Puissances [Signataires] *Contractantes* veulent s'adresser à la Cour Permanente pour le règlement d'un différend survenu entre elles, le choix des arbitres appelés à former le Tribunal compétent pour statuer sur ce différend, doit être fait dans la liste générale des membres de la Cour.

A défaut de constitution du Tribunal Arbitral par l'accord [immédiat] des Parties, il est procédé de la manière suivante :

Chaque Partie nomme deux arbitres [et ceux-ci] *dont un seulement peut être son national ou choisi parmi ceux qui ont été désignés par elle comme Membres de la Cour Permanente. Ces arbitres* choisissent ensemble un surarbitre.

En cas de partage de voix, le choix du surarbitre est confié a une Puissance tierce, désignée de commun accord par les Parties.

Si l'accord ne s'établit pas à ce sujet, chaque Partie désigne une Puissance différente, et le choix du surarbitre est fait de concert par les Puissances ainsi désignées.

[Le Tribunal étant ainsi composé, les Parties notifient au Bureau leur décision de s'adresser à la Cour et les noms des arbitres.

Le Tribunal Arbitral se réunit à la date fixée par les Parties.

Les membres de la Cour, dans l'exercice de leurs fonctions et en dehors de leur pays, jouissent des privilèges et immunités diplomatiques.]

ARTICLE [XXIII.] XLIV.

[Within the three months following ratification of the present Act], Each [Signatory] *Contracting* Power [shall] selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrators.

The persons thus selected [shall be] *are* inscribed, as members of the Court, in a list which shall be notified by the Bureau to all the Signatory Powers.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the [Signatory] *Contracting* Powers.

Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers.

The members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a member of the Court, his place shall be filled in accordance with the method of his appointment, *and for a further period of six years.*

ARTICLE [XXIV.] XLV.

When the [Signatory] *Contracting* Powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the Arbitrators called upon to form the competent Tribunal to decide this difference must be chosen from the general list of members of the Court.

Failing [the direct] agreement of the parties on the composition of the Arbitration Tribunal the following course shall be pursued :

Each party appoints two Arbitrators [and these], *of whom one only can be of its nationality or selected from those nominated by them as members of the permanent Court. These arbitrators* together choose an Umpire.

If the votes are equal, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

[The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court and the names of the Arbitrators.

The Tribunal of Arbitration assembles on the date fixed by the Parties.

The members of the Court, in the discharge of their duties and out of their own country, enjoy diplomatic privileges and immunities.]

Si, dans un délai de deux mois, ces deux Puissances n'ont pu tomber d'accord, chacune d'Elles présente deux candidats pris sur la liste des Membres de la Cour Permanente, en dehors des Membres désignés par les Parties et n'étant les nationaux d'aucune d'Elles. Le sort détermine lequel des candidats ainsi présentés sera le surarbitre.

[ARTICLE XXV.

Le Tribunal Arbitral siège d'ordinaire à La Haye.

Le siège ne peut, sauf le cas de force majeure, être changé par le Tribunal que de l'assentiment des Parties.]

[ARTICLE XXVI.

Le Bureau International de La Haye est autorisé à mettre ses locaux et son organisation à la disposition des Puissances Signataires pour le fonctionnement de toute juridiction spéciale d'arbitrage.

La juridiction de la Cour Permanente peut être étendue, dans les conditions prescrites par les règlements, aux litiges existant entre des Puissances non-Signataires ou entre des Puissances Signataires et des Puissances non-Signataires, si les Parties sont convenues de recourir à cette juridiction.]

ARTICLE XLVI.

Dès que le Tribunal est composé, les Parties notifient au Bureau leur décision de s'adresser à la Cour, le texte de leur compromis, et les noms des arbitres.

Le Bureau communique sans délai à chaque arbitre le compromis et les noms des autres Membres du Tribunal.

Le Tribunal se réunit à la date fixée par les Parties. Le Bureau pourvoit à son installation.

Les Membres du Tribunal, dans l'exercice de leurs fonctions et en dehors de leur pays, jouissent des privilèges et immunités diplomatiques.

ARTICLE XLVII.[2]

Le Bureau est autorisé à mettre ses locaux et son organisation à la disposition des Puissances Contractantes pour le fonctionnement de toute juridiction[3] *spéciale d'arbitrage.*

La juridiction de la Cour Permanente peut être étendue, dans les conditions prescrites par les règlements, aux litiges existant entre des Puissances non Contractantes ou entre des Puissances Contractantes et des Puissances non Contractantes, si les Parties sont convenues de recourir à cette juridiction.

ARTICLE [XXVII.] XLVIII.

Les Puissances [Signataires] *Contractantes* considèrent comme un devoir, dans le cas où un conflit aigu menacerait d'éclater entre deux ou plusieurs d'entre Elles, de rappeler a celles-ci que la Cour Permanente leur est ouverte.

If, within a period of two months, these two Powers have not come to an agreement, each of them submits two candidates taken from the list of members of the permanent Court, apart from the members selected by the Parties and not being nationals of any of these Parties. The umpire shall be selected from the candidates thus submitted by drawing of lots.

[ARTICLE XXV.

The Tribunal of Arbitration has its ordinary seat at The Hague.

Except in cases of necessity, the place of session can only be altered by the Tribunal with the assent of the parties.]

[ARTICLE XXVI.

The International Bureau at The Hague is authorised to place its premises and its staff at the disposal of the Signatory Powers for the operations of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the Regulations, be extended to disputes between non-Signatory Powers, or between Signatory Powers and non-Signatory Powers, if the parties are agreed on recourse to this Tribunal.]

ARTICLE XLVI.

As soon as the Tribunal is constituted, the Parties shall notify to the Bureau their decision to apply to the Court, the text of their "compromis,"[1] *and the names of the Arbitrators.*

The Bureau communicates, without delay, to each arbitrator the "compromis" and the names of the other Members of the Tribunal.

The Tribunal sits at the date fixed by the Parties. The Bureau provides for its installation.

The Members of the Tribunal, in the exercise of their functions and outside their own country, enjoy diplomatic privileges and immunities.

ARTICLE XLVII.[2]

The Bureau is authorised to place its premises and its organisation at the disposal of the Contracting Powers for the purposes of any special arbitration proceedings.[3]

The jurisdiction of the Permanent Court may be extended, under conditions provided for by the rules, to differences existing between non-Contracting Powers or between Contracting Powers and non-Contracting Powers, if the Parties are agreed to accept this jurisdiction.

ARTICLE [XXVII.] XLVIII.

The [Signatory] *Contracting* Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

[1] See *Problems*, p. 26.

[2] See Article XXVI., of which this takes the place without change of sense.

[3] The purport of the word *juridiction* in this connection is not clear. The official translation is "special Board of Arbitration." I have preferred to follow the vaguer sense of the draftsman.

En conséquence, elles déclarent que le fait de rappeler aux Parties en conflit les dispositions de la présente Convention, et le conseil donné, dans l'intérêt supèrieur de la paix, de s'adresser à la Cour Permanente ne peuvent être considérés que comme actes de bons offices.

En cas de conflit entre deux Puissances, l'une d'Elles pourra toujours adresser au Bureau International une note contenant sa déclaration qu'Elle serait disposée à soumettre le différend à un arbitrage.

Le Bureau devra porter aussitôt la déclaration à la connaissance de l'autre Puissance.

ARTICLE [XXVIII.] XLIX.

[Un] *Le* Conseil Administratif Permanent composé des Représentants Diplomatiques des Puissances [Signataires] *Contractantes* accrédités à La Haye et du Ministre des Affaires Étrangères des Pays-Bas qui rempli [ra] les fonctions de Président [sera constitué dans cette ville le plus tôt possible après la ratification du présent Acte par neuf Puissances au moins] *à la direction et contrôle du Bureau International.*

Ce Conseil sera chargé d'établir et d'organiser le Bureau International, lequel demeurera sous sa direction et sous son contrôle.

[Il notifiera aux Puissances la constitution de la Cour et pourvoira à l'installation de celle-ci.]

[Il] *Ce Conseil* arrête[ra] son règlement d'ordre ainsi que tous autres règlements nécessaires.

Il décide[ra] toutes les questions administratives qui pourraient surgir touchant le fonctionnement de la Cour.

Il a[ura] tout pouvoir quant à la nomination, la suspension, ou la révocation des fonctionnaires et employés du Bureau.

Il fixe[ra] les traitements et salaires et contrôle[ra] la dépense générale.

La présence de [cinq] *neuf* membres dans les réunions dûment convoquées suffit pour permettre au Conseil de délibérer valable ment. Les décisions sont prises à la majorité des voix.

Le Conseil communique sans délai aux Puissances [Signataires] *Contractantes* les règlements adoptés par lui. Il leur [adresse] *présente* chaque année un Rapport sur les travaux de la Cour, sur le fonctionnement des services administratifs, et sur les dépenses.

Le rapport contient également un résumé du contenu essentiel des documents communiqués au Bureau par les Puissances en vertu de l'Article XLIII., alinéas 3 et 4.

ARTICLE [XXIX.] L.

Les frais du Bureau seront supportés par les Puissances [Signataires] *Contractantes* dans la proportion établie pour le Bureau International de l'Union Postale Universelle.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

In case of dispute between two Powers, one of them may always address a note to the International Bureau containing its declaration that it is prepared to submit the difference to arbitration.

The Bureau shall at once bring the declaration to the knowledge of the other Power.

ARTICLE [XXVIII.] XLIX.

[A] *The* Permanent Administrative Council composed of the Diplomatic Representatives of the [Signatory] *Contracting* Powers accredited to The Hague, and of the Netherland Minister for Foreign Affairs, who [will] act*s* as President [shall be instituted in this town as soon as possible after the ratification of the present Act by at least nine Powers] *under the direction and control of the International Bureau.*

This Council will be charged with the establishment and organisation of the International Bureau, which will be under its direction and control.

[It will notify to the Powers the constitution of the Court and will provide for its installation.]

[It will] *This Council* settle*s* its Rules of Procedure and all other necessary Regulations.

It [will] decide*s* all questions of administration which may arise with regard to the operations of the Court.

It [will have] *has* entire control over the appointment, suspension, or dismissal of the officials and employés of the Bureau.

It [will] fix*es* the payments and salaries, and control*s* the general expenditure.

At meetings duly summoned the presence of [five] *nine* members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the [Signatory] *Contracting* Powers without delay the Regulations adopted by it. It [furnishes] *submits to* them [with] an annual Report on the labours of the Court, the working of the Administration, and the expenses.

The report also contains a summary of the essential contents of the documents communicated to the Bureau by the Powers by virtue of Article XLIII., §§ 3 *and* 4.

ARTICLE [XXIX.] L.

The expenses of the Bureau shall be borne by the [Signatory] *Contracting* Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

Chapitre III.—*De la Procédure Arbitrale.*

ARTICLE [XXX.] LI.

En vue de favoriser le développement de l'arbitrage, les Puissances [Signataires] *Contractantes* ont arrêté les règles suivantes, qui *s*[er]*ont* applicables à la procédure arbitrale, en tant que les Parties ne sont pas convenues d'autres règles.

ARTICLE [XXXI.] LII.

Les Puissances qui recourent à l'arbitrage signent un [Acte spécial (]Compromis[)] dans lequel sont [nettement] déterminés l'objet du litige [ainsi que l'étendue des pouvoirs des arbitres. Cet Acte implique l'engagement des Parties de se soumettre de bonne foi à la sentence arbitrale],[1] *le délai de nomination des arbitres, la forme, l'ordre et les délais dans lesquels la communication visée par l'Article LXIII. devra être faite, et le montant de la somme que chaque Partie aura à déposer à titre d'avance pour les frais.*

Le compromis détermine également, s'il y a lieu, le mode de nomination des arbitres, tous pouvoirs spéciaux éventuels du Tribunal, son siège, la langue dont il fera usage et celles dont l'emploi sera autorisé devant lui, et généralement toutes les conditions dont les Parties sont convenues.

[ARTICLE XXXII.[2]

Les fonctions arbitrales peuvent être conférées à un arbitre unique ou à plusieurs arbitres désignés par les Parties à leur gré, ou choisis par elles parmi les membres de la Cour Permanente d'Arbitrage établie par le présent Acte.

A défaut de constitution du Tribunal par l'accord immédiat des Parties, il est procédé de la manière suivante :

Chaque Partie nomme deux arbitres et ceux-ci choisissent ensemble un surarbitre.

En cas de partage des voix, le choix du surarbitre est confié à une Puissance tierce, désignée de commun accord par les Parties.

Si l'accord ne s'établit pas à ce sujet, chaque Partie désigne une Puissance différente et le choix du surarbitre est fait de concert par les Puissances ainsi désignées.]

ARTICLE LIII.

La Cour Permanente est compétente pour l'établissement du compromis, si les Parties sont d'accord pour s'en remettre à elle.

Elle est également compétente, même si la demande est faite seulement par l'une des Parties, après qu'un accord par la voie diplomatique a été vainement essayé, quand il s'agit :

1°. *D'un différend rentrant dans un Traité d'arbitrage général conclu ou renouvelé après la mise en vigueur de cette Convention et*

Chapter III.—*On Arbitral Procedure.*

ARTICLE [XXX.] LI.

With a view to encourage the development of arbitration, the [Signatory] *Contracting* Powers have agreed on the following Rules, which [shall be] *are* applicable to arbitral procedure, unless other Rules have been agreed on by the parties.

ARTICLE [XXXI.] LII.

The Powers who have recourse to arbitration sign a [special Act ("] Compromis [")], in which the subject of the difference is [clearly] defined [as well as the extent of the Arbitrators' powers. This Act implies the undertaking of the parties to submit loyally to the Award],[1] *the time for the appointment of the arbitrators, the form, order, and periods within which the communication referred to in Article LXIII. shall be made, and the amount which each Party shall deposit on account of expenses.*

The "compromis" shall also fix, if necessary, the mode in which the arbitrators shall be appointed, all special powers which it may be requisite to confer on the Tribunal, its meeting-place, the language to be employed, and the languages the use of which may be authorised before it, and generally all conditions on which the Parties are agreed.

[ARTICLE XXXII.[2]

The duties of Arbitrator may be conferred on one Arbitrator alone or on several Arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Act.

Failing the constitution of the Tribunal by direct agreement between the parties, the following course shall be pursued :

Each party appoints two Arbitrators, and these latter together choose an Umpire.

In case of equal voting, the choice of the Umpire is entrusted to a third Power, selected by the parties by common accord.

If no agreement is arrived at on this subject, each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.]

ARTICLE LIII.

The permanent Court is competent for the drawing up of the "compromis," if the Parties are agreed to accept it.

It is also competent, even if the application is made by only one of the Parties, when an arrangement through the diplomatic channel has been tried in vain, provided it relates to :

1. *A difference arising out of a general arbitration Treaty entered into or renewed after this Convention shall have come into force, and which*

[1] This part of the Article has been transposed to Article XXXVII.
[2] Transposed with modifications to Articles LV. and XLV.

qui prévoit pour chaque différend un compromis et n'exclut pour l'établissement de ce dernier ni explicitement ni implicitement la compétence de la Cour. Toutefois, le recours à la Cour n'a pas lieu si l'autre Partie déclare qu'à son avis le différend n'appartient pas à la catégorie des différends à soumettre à un arbitrage obligatoire, à moins que le Traité d'arbitrage ne confère au Tribunal arbitral le pouvoir de décider cette question préalable ;

2°. D'un différend provenant de dettes contractuelles réclamées à une Puissance par une autre Puissance comme dues à ses nationaux, et pour la solution duquel l'offre d'arbitrage a été acceptée. Cette disposition n'est pas applicable si l'acceptation a été subordonnée à la condition que le compromis soit établi selon un autre mode.

ARTICLE LIV.

Dans les cas prévus par l'article précédent, le compromis sera établi par une commission composée de cinq membres désignés de la manière prévue à l'Article XLV., alinéas 3 à 6.

Le cinquième membre est de droit Président de la commission.

ARTICLE LV.[1]

Les fonctions arbitrales peuvent être conférées à un arbitre unique ou à plusieurs arbitres désignés par les Parties à leur gré, ou choisis par Elles parmi les Membres de la Cour Permanente d'arbitrage établie par la présente Convention.

A défaut de constitution du Tribunal par l'accord des Parties, il est procédé de la manière indiquée à l'Article XLV., alinéas 3 à 6.

ARTICLE [XXXIII.] LVI.

Lorsqu'un Souverain ou un Chef d'État est choisi pour arbitre, la procédure arbitrale est réglée par lui.

ARTICLE [XXXIV.] LVII.

Le surarbitre est de droit Président du Tribunal.

Lorsque le Tribunal ne comprend pas de surarbitre, il nomme lui-même son Président.

ARTICLE LVIII.

En cas d'établissement du compromis par une commission, telle qu'elle est visée à l'Article LIV., et sauf stipulation contraire, la commission elle même formera le Tribunal d'arbitrage.

ARTICLE [XXXV.] LIX.

En cas de décès, de démission, ou d'empêchement, pour quelque cause que ce soit, de l'un des arbitres, il est pourvu à son remplacement selon le mode fixé pour sa nomination.

provides for each difference a "compromis," and which does not exclude, either expressly or implicitly, the competence of the Court to settle it. In any event, recourse to the Court shall not be admissible if the other Party declares that in its opinion the difference does not belong to the category of differences of a nature to be submitted to obligatory arbitration, unless the arbitration Treaty confers on the Court the power to decide this preliminary question ;

2. A difference arising out of contractual debts claimed from one Power by another Power as due to its nationals, and for the solution of which the offer of arbitration has been accepted. This provision is not applicable if the acceptance has been made subject to the condition that the "compromis" should be settled in another way.

ARTICLE LIV.

In cases provided for by the preceding article, the "compromis" shall be settled by a commission composed of five members appointed in the manner specified in Article XLV., §§ 3 *to* 6.

The fifth member is de jure *President of the commission.*

ARTICLE LV.[1]

Arbitral functions may be conferred on a single arbitrator or on several arbitrators appointed by the Parties as they may think proper, or selected by them from the members of the permanent Court of arbitration established by the present Convention.

In default of constitution of the Tribunal by agreement between the Parties, the procedure shall be as specified in Article XLV., §§ 3 *to* 6.

ARTICLE [XXXIII.] LVI.

When a Sovereign or the Chief of a State is chosen as Arbitrator, the arbitral procedure is settled by him.

ARTICLE [XXXIV.] LVII.

The Umpire is by right President of the Tribunal.

When the Tribunal does not include an Umpire, it appoints its own President.

ARTICLE LVIII.

In the event of the settlement of the "compromis" by a commission, as provided in Article LIV., and in the absence of any stipulation to the contrary, the commission itself shall constitute the Tribunal of arbitration.

ARTICLE [XXXV.] LIX.

In case of the death, retirement, or disability from any cause of one of the Arbitrators, his place shall be filled in accordance with the method of his appointment.

[1] Comp. Article XXXII. of Convention of 1899.

[ARTICLE XXXVI.

Le siège du Tribunal est désigné par les Parties. A défaut de cette désignation le Tribunal siège à La Haye.

Le siège ainsi fixé ne peut, sauf le cas de force majeure, être changé par le Tribunal que de l'assentiment des Parties.]

ARTICLE LX.

A défaut de désignation par les Parties, le Tribunal siège à La Haye.

Le Tribunal ne peut siéger sur le territoire d'une tierce Puissance qu'avec l'assentiment de celle-ci.

Le siège une fois fixé ne peut être changé par le Tribunal qu'avec l'assentiment des Parties.

ARTICLE LXI.

Si le compromis n'a pas déterminé les langues à employer, il en est décidé par le Tribunal.

ARTICLE [XXXVII.] LXII.

Les Parties ont le droit de nommer auprès du Tribunal des [délégués ou] agents spéciaux, avec la mission de servir d'intermédiaires entre elles et le Tribunal.

Elles sont en outre autorisées à charger de la défense de leurs droits et intérêts devant le Tribunal, des Conseils ou avocats nommés par elles à cet effet.

Les Membres de la Cour Permanente ne peuvent exercer les fonctions d'agents, conseils ou avocats, qu'en faveur de la Puissance qui les a nommés Membres de la Cour.

[ARTICLE XXXVIII.

Le Tribunal décide du choix des langues dont il fera usage et dont l'emploi sera autorisé devant lui.][1]

ARTICLE [XXXIX.] LXIII.

La procédure arbitrale comprend en règle générale deux phases distinctes : l'instruction et les débats.

L'instruction *écrite* consiste dans la communication faite par les agents respectifs, aux membres du Tribunal et à la Partie adverse [de tous actes imprimés ou écrits et de tous documents contenant les moyens invoqués dans la cause. Cette communication aura lieu dans la forme et dans les délais déterminés par le Tribunal en vertu de l'Article XLIX.], *des mémoires, des contre-mémoires et, au besoin, des répliques ; les Parties y joignent toutes pièces et documents invoqués dans la cause. Cette communication aura lieu, directement ou par l'intermédiaire du Bureau International, dans l'ordre et dans les délais déterminés par le compromis.*

Les délais fixés par le compromis pourront être prolongés de

[ARTICLE XXXVI.

The Tribunal's place of session is selected by the parties. Failing this selection the Tribunal sits at The Hague.

The place thus fixed cannot, except in case of necessity, be changed by the Tribunal without the assent of the parties.]

ARTICLE LX.

Unless otherwise fixed by the Parties, the Tribunal shall hold its sittings at The Hague.

The Tribunal may only hold its sittings on the territory of a third Power with the consent of the latter.

The place of sitting once fixed can only be changed by the Tribunal with the consent of the Parties.

ARTICLE LXI.

If the "compromis" has not fixed the languages to be used, this shall be decided by the Tribunal.

ARTICLE [XXXVII.] LXII.

The parties have the right to appoint [delegates or] special agents to attend the Tribunal, for the purpose of serving as intermediaries between them and the Tribunal.

They are further authorised to retain, for the defence of their rights and interests before the Tribunal, counsel or advocates appointed by them for this purpose.

Members of the permanent Court cannot exercise the functions of agents, counsel, or advocates except for the benefit of the Power which has appointed them Members of the Court.

[ARTICLE XXXVIII.

The Tribunal decides on the choice of languages to be used by itself, and to be authorised for use before it.][1]

ARTICLE [XXXIX.] LXIII.

As a general rule the arbitral procedure comprises two distinct phases : preliminary examination and discussion.

Preliminary *written* examination consists in the communication by the respective agents to the members of the Tribunal and to the opposite party [of all printed or written Acts and of all documents containing the arguments invoked in the case. This communication shall be made in the form and within the periods fixed by the Tribunal in accordance with Article XLIX.] *of memoirs, counter-memoirs, and, if necessary, replies ; the Parties add all documents referred to in the cause. This communication shall be made, either directly or through the medium of the International Bureau, in the order and within the periods fixed by the "compromis."*

The periods fixed by the "compromis" may be extended by the mutual

[1] See Article LXI., which takes the place of this Article.

commun accord par les Parties, ou par le Tribunal quand il le juge nécessaire pour arriver à une décision juste.

Les débats consistent dans le développement oral des moyens des Parties devant le Tribunal.

ARTICLE [XL.] LXIV.

Toute pièce produite par l'une des Parties doit être communiquée a l'autre Partie.

ARTICLE LXV.

A moins de circonstances spéciales, le Tribunal ne se réunit qu'après la clôture de l'instruction.

ARTICLE [XLI.] LXVI.

Les débats sont dirigés par le Président.

Ils ne sont publics qu'en vertu d'une décision du Tribunal, prise avec l'assentiment des Parties.

Ils sont consignés dans des procès-verbaux rédigés par des secrétaires que nomme le Président. Ces procès-verbaux *sont signés par le Président et par un des secrétaires : ils* ont seuls caractère authentique.

ARTICLE [XLII.] LXVII.

L'instruction étant close, le Tribunal a le droit d'écarter du débat tous actes ou documents nouveaux qu'une des Parties voudrait lui soumettre sans le consentement de l'autre.

ARTICLE [XLIII.] LXVIII.

Le Tribunal demeure libre de prendre en considération les Actes ou documents nouveaux sur lesquels les Agents ou Conseils des Parties appelleraient son attention.

En ce cas, le Tribunal à le droit de requérir la production de ces actes ou documents, sauf l'obligation d'en donner connaissance à la Partie adverse.

ARTICLE [XLIV.] LXIX.

Le Tribunal peut, en outre, requérir des Agents des Parties la production de tous actes et demander toutes explications nécessaires. En cas de refus le Tribunal en prend acte.

ARTICLE [XLV.] LXX.

Les agents et les conseils des Parties sont autorisés à présenter oralement au Tribunal tous les moyens qu'ils jugent utiles à la defense de leur cause.

agreement of the Parties or by the Tribunal, when the latter shall consider it necessary in order to arrive at a just decision.

Discussion consists in the oral development before the Tribunal of the arguments of the parties.

ARTICLE [XL.] LXIV.

Every document produced by one party must be communicated to the other party.

ARTICLE LXV.

In the absence of special circumstances, the Tribunal will only sit after all the preliminary examination[1] *has been completed.*

ARTICLE [XLI.] LXVI.

The discussions are under the direction of the President.

They are only public if it be so decided by the Tribunal, with the assent of the parties.

They are recorded in the *procès-verbaux*[2] drawn up by the Secretaries appointed by the President. These *procès-verbaux are signed by the President and by one of the secretaries ; they* alone have an authentic character.

ARTICLE [XLII.] LXVII.

When the preliminary examination is concluded, the Tribunal has the right to refuse discussion of all fresh Acts or documents which one party may desire to submit to it without the consent of the other party.

ARTICLE [XLIII.] LXVIII.

The Tribunal is free to take into consideration fresh Acts or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the Tribunal has the right to require the production of these Acts or documents, but is obliged to make them known to the opposite party.

ARTICLE [XLIV.] LXIX.

The Tribunal can, besides, require from the agents of the parties the production of all Acts, and can demand all necessary explanations. In case of refusal, the Tribunal takes note of it.

ARTICLE [XLV.] LXX.

The agents and counsel of the parties are authorised to present orally to the Tribunal all the arguments they may think expedient in defence of their case.

[1] That is to say, the "preliminary written examination" provided by Article LXIII.

[2] This is the wording of the official translation of the Convention of 1899. The English equivalent of *procès-verbal* is "minute."

ARTICLE [XLVI.] LXXI.

Ils ont le droit de soulever des exceptions et *des* incidents. Les décisions du Tribunal sur ces points sont définitives et ne peuvent donner lieu à aucune discussion ultérieure.

ARTICLE [XLVII.] LXXII.

Les membres du Tribunal ont le droit de poser des questions aux agents et aux conseils des Parties et de leur demander des éclaircissements sur les points douteux.

Ni les questions posées, ni les observations faites par les membres du Tribunal pendant le cours des débats ne peuvent être regardées comme l'expression des opinions du Tribunal en général ou de ses membres en particulier.

ARTICLE [XLVIII.] LXXIII.

Le Tribunal est autorisé à déterminer sa compétence en interprétant le compromis ainsi que les autres[1] Traités qui peuvent être invoqués dans la matière, et en appliquant les principes du droit international.

ARTICLE [XLIX.] LXXIV.

Le Tribunal a le droit de rendre des ordonnances de procédure pour la direction du procès, de déterminer les formes, *l'ordre* et *les* délais dans lesquels chaque Partie devra prendre ses conclusions *finales* et de procéder à toutes les formalités que comporte l'administration des preuves.

ARTICLE LXXV.

Les Parties s'engagent à fournir au Tribunal, dans la plus large mesure qu'Elles jugeront possible, tous les moyens nécessaires pour la décision du litige.

ARTICLE LXXVI.

Pour toutes les notifications que le Tribunal aurait à faire sur le territoire d'une tierce Puissance Contractante, le Tribunal s'adressera directement au Gouvernement de cette Puissance. Il en sera de même s'il s'agit de aire procéder sur place à l'établissement de tous moyens de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après sa législation intérieure. Elles ne peuvent être refusées que si cette Puissance les juge de nature à porter atteinte à sa souveraineté ou à sa sécurité.

Le Tribunal aura aussi toujours la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle il a son siège.

ARTICLE [XLVI.] LXXI.

They have the right to raise objections and points.

The decisions of the Tribunal on those points are final, and cannot form the subject of any subsequent discussion.

ARTICLE [XLVII.] LXXII.

The members of the Tribunal have the right to put questions to the agents and counsel of the parties, and to demand explanations from them on doubtful points.

Neither the questions put nor the remarks made by members of the Tribunal during the discussions can be regarded as an expression of opinion by the Tribunal in general, or by its members in particular.

ARTICLE [XLVIII.] LXXIII.

The Tribunal is authorised to declare its competence in interpreting the "compromis" as well as the other Treaties which may be invoked in the case, and in applying the principles of international law.

ARTICLE [XLIX.] LXXIV.

The Tribunal has the right to issue Rules of Procedure for the conduct of the case, to decide the forms, *the order* and periods within which each party must conclude its *final* arguments, and to arrange all the formalities required for dealing with the evidence.

ARTICLE LXXV.

The Parties undertake to supply the Tribunal, as far as they possibly can, with all material requisite for the settlement of the matter at issue.

ARTICLE LXXVI.

In respect of any notifications which the Tribunal may have to make on the territory of a third Contracting Power, the Tribunal shall address itself directly to the Government of that Power. The same applies where evidence has to be taken on the spot.

Applications to this effect shall be complied with in accordance with the domestic legislation of the Power to whom the application is addressed. They can only be refused if this Power shall consider them of a nature to interfere with its sovereignity or its security.

The Tribunal shall always have the right of recourse to the intermediary of the Power on whose territory its sittings are held.

[1] This ought to have been corrected by the omission of the word *autres*. The *compromis* is not in the nature of a Treaty (see *Problems*, p. 26). Comp. Article LIII., which even makes the Court itself competent for the fixing of matters left to the *compromis* under Article LII.

ARTICLE [L.] LXXVII.

Les agents et les conseils des Parties ayant présenté tous les éclaircissements et preuves à l'appui de leur cause, le Président prononce la clôture des débats.

ARTICLE [LI.] LXXVIII.

Les délibérations du Tribunal ont lieu à huis-clos *et restent secrètes.*

Toute décision est prise à la majorité des membres du Tribunal.

[Le refus d'un membre de prendre part au vote doit être constaté dans le procès-verbal.]

ARTICLE [LII.] LXXIX.

La sentence arbitrale[, votée à la majorité des voix,] est motivée. *Elle mentionne les noms des arbitres ; elle est signée par le Président et par le greffier ou le secrétaire faisant fonction de greffier.* [Elle est rédigée par écrit et signée par chacun des membres du Tribunal.

Ceux des membres qui sont restés en minorité peuvent constater, en signant, leur dissentiment.]

ARTICLE [LIII.] LXXX.

La sentence [arbitrale] est lue en séance publique [du Tribunal], les agents et les conseils des Parties présents ou dûment appelés.

ARTICLE [LIV.] LXXXI.

La sentence [arbitrale], dûment prononcée et notifiée aux agents des Parties [en litige], décide définitivement et sans appel la contestation.

ARTICLE LXXXII.

Tout différend qui pourrait surgir entre les Parties, concernant l'interprétation et l'exécution de la sentence, sera, sauf stipulation contraire, soumis au jugement du Tribunal qui l'a rendue.

ARTICLE [LV.] LXXXIII.

Les Parties peuvent se réserver dans le compromis de demander la revision de la sentence arbitrale.

Dans ce cas, et sauf [convention] *stipulation* contraire, la demande doit être adressée au Tribunal qui a rendu la sentence. Elle ne peut être motivée que par la découverte d'un fait nouveau qui eût été de nature à exercer une influence décisive sur la sentence et qui, lors de la clôture des débats, était inconnu du Tribunal lui-même et de la Partie qui a demandé la revision.

ARTICLE [L.] LXXVII.

When the agents and counsel of the parties have submitted all explanations and evidence in support of their case, the President pronounces the discussion closed.

ARTICLE [LI.] LXXVIII.

The deliberations of the Tribunal take place in private *and remain secret.*

Every decision is taken by a majority of members of the Tribunal.

[The refusal of a member to vote must be recorded in the *procès-verbal.*]

ARTICLE [LII.] LXXIX.

The Award[, given by a majority of votes,] is accompanied by a statement of reasons. *It shall mention the names of the arbitrators ; it is signed by the President and by the registrar, or by the secretary acting as registrar.* [It is drawn up in writing and signed by each member of the Tribunal.

Those members who are in the minority may record their dissent when signing.]

ARTICLE [LIII.] LXXX.

The Award is read out at a public meeting [of the Tribunal], the agents and counsel of the parties being present, or duly summoned to attend.

ARTICLE [LIV.] LXXXI.

The Award, duly pronounced and notified to the agents of the parties [at variance], puts an end to the dispute definitely and without appeal.

ARTICLE LXXXII.

Any difference which may arise between the Parties, relating to the interpretation and execution of the award, shall, in the absence of any stipulation to the contrary, be submitted to the decision of the Court which has delivered it.

ARTICLE [LV.] LXXXIII.

The parties can reserve in the "compromis" the right to demand the revision of the Award.

In this case, and unless there be an [agreement] *stipulation* to the contrary, the demand must be addressed to the Tribunal which pronounced the Award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence on the Award, and which, at the time the discussion was closed, was unknown to the Tribunal and to the party demanding the revision.

La procédure de revision ne peut être ouverte que par une décision du Tribunal constatant expressément l'existence du fait nouveau, lui reconnaissant les caractères prévus par le paragraphe précedént et déclarant à ce titre la demande recevable.

Le compromis détermine le délai dans lequel la demande de revision doit être formée.

ARTICLE [LVI.] LXXXIV.

La sentence arbitrale n'est obligatoire que pour les Parties [qui ont conclu le compromis] *en litige.*

Lorsqu'il s'agit de l'interprétation d'une convention à laquelle ont participé d'autres Puissances que les Parties en litige, celles-ci [notifient aux premières le compromis qu'elles ont conclu] *avertissent en temps utile toutes les Puissances Signataires.* Chacune de ces Puissances a le droit d'intervenir au procès. Si une ou plusieurs d'[entre] Elles ont profité de cette faculté, l'interprétation contenue dans la sentence est également obligataire à leur égard.

ARTICLE [LVII.] LXXXV.

Chaque Partie supporte ses propres frais et une part égale des frais du Tribunal.

Chapitre IV.—*De la Procédure Sommaire d'Arbitrage.*

ARTICLE LXXXVI.

En vue de faciliter le fonctionnement de la justice arbitrale, lorsqu'il s'agit de litiges de nature à comporter une procédure sommaire, les Puissances Contractantes arrêtent les règles ci-après qui seront suivies en l'absence de stipulations différentes, et sous réserve, le cas échéant, de l'application des dispositions du chapitre III. qui ne seraient pas contraires.

ARTICLE LXXXVII.

Chacune des Parties en litige nomme un arbitre. Les deux arbitres ainsi désignés choisissent un surarbitre. S'ils ne tombent pas d'accord à ce sujet, chacun présente deux candidats pris sur la liste générale des Membres de la Cour permanente, en dehors des Membres indiqués par chacune des Parties Elles-mêmes et n'étant les nationaux d'aucune d'Elles ; le sort détermine lequel des candidats ainsi présentés sera le surarbitre.

Le surarbitre préside le Tribunal, qui rend ses décisions à la majorité des voix.

ARTICLE LXXXVIII.

A défaut d'accord préalable, le Tribunal fixe, dès qu'il est constitué, le délai dans lequel les deux Parties devront lui soumettre leurs mémoires respectifs.

Proceedings for revision can only be instituted by a decision of the Tribunal expressly recording the existence of the new fact, recognising in it the character described in the foregoing paragraph, and declaring the demand admissible on this ground.

The "compromis" fixes the period within which the demand for revision must be made.

ARTICLE [LVI.] LXXXIV.

The Award is only binding on the parties [who concluded the "compromis"] *at variance.*

When there is a question of interpreting a convention to which Powers, other than those concerned in the dispute, are parties, the latter [notify to the former the "compromis" they have concluded] *notify within a suitable time all the Signatory Powers.* Each of these Powers has the right to intervene in the case. If one or more of them avail themselves of this right, the interpretation contained in the Award is equally binding on them.

ARTICLE [LVII.] LXXXV.

Each party pays its own expenses and an equal share of those of the Tribunal.

Chapter IV.—*Of Summary Arbitration Procedure.*

ARTICLE LXXXVI.

With a view to facilitate proceedings in arbitration, when they concern disputes of a nature to be dealt with summarily, the Contracting Powers adopt the following rules which shall be followed in the absence of stipulations to the contrary, and under reserve, should the case arise, of the application of the provisions of Chapter III. which may not be inconsistent therewith.

ARTICLE LXXXVII.

Each of the Parties in conflict appoints an arbitrator. The two arbitrators thus appointed choose an umpire. If they do not agree as to this, each shall submit two candidates selected from the general list of the Members of the permanent Court, excluding the members indicated by each of the Parties themselves and not being nationals of their respective countries; which of these candidates shall be the umpire shall be determined by drawing lots.

The umpire presides over the Tribunal which decides by the majority.

ARTICLE LXXXVIII.

In the absence of previous agreement, the Tribunal, as soon as it is constituted, fixes the period within which the two Parties are to submit their respective statements.

ARTICLE LXXXIX.

Chaque Partie est représentée devant le Tribunal par un agent qui sert d'intermédiaire entre le Tribunal et le Gouvernement qui l'a désigné.

ARTICLE XC.

La procédure a lieu exclusivement par écrit. Toutefois, chaque Partie a le droit de demander la comparution de témoins et d'experts. Le Tribunal a, de son côté, la faculté de demander des explications orales aux agents des deux Parties, ainsi qu'aux experts et aux témoins dont il iuge la comparution utile.

Dispositions [Générales] Finales.

ARTICLE XCI.

La présente Convention dûment ratifiée remplacera, dans les rapports entre les Puissances Contractantes, la Convention pour le règlement pacifique des conflits internationaux du 29 juillet 1899.

ARTICLE [LVIII.] XCII.

La présente Convention sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à La Haye.

[Il sera dressé du dépôt de chaque ratification un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puisssances, qui ont été représentées à la Conférence Internationale de la Paix de La Haye.]

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bas et par la voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement Leur fera connaître en même temps la date à laquelle il a reçu la notification.

[ARTICLE LIX.

Les Puissances non-Signataires qui ont été représentées à la Conférence Internationale de la Paix pourront adhérer à la présente Convention. Elles auront à cet effet à faire connaître

ARTICLE LXXXIX.

Each Party is represented before the Tribunal by an agent who shall act as intermediary between the Tribunal and the Government which has appointed him.

ARTICLE XC.

The proceedings shall be exclusively in writing. Each Party has, however, the right to apply for the calling of witnesses and experts. The Tribunal, on its side, has the power to require oral explanations from the agents of the two Parties, as well as from the witnesses and experts whose attendance it shall deem desirable.

[*General*] *Final Provisions.*

ARTICLE XCI.

The present Convention, duly ratified, shall take the place in the relations between the Contracting Powers of the Convention for the pacific settlement of international disputes of 29th July 1899.

ARTICLE [LVIII.] XCII.

The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at The Hague.

[A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy duly certified shall be sent, through the diplomatic channel, to all the Powers who were represented at the International Peace Conference at The Hague.]

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein and by the Netherland Minister of Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and through the diplomatic channel to the Powers convened to the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

[ARTICLE LIX.

The non-Signatory Powers who were represented at the International Peace Conference can adhere to the present Convention. For this purpose

leur adhésion aux Puissances Contractantes, au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et communiquée par celui-ci à toutes les autres Puissances Contractantes.]

ARTICLE XCIII.

Les Puissances non-Signataires qui ont été conviées à la Deuxième Conférence de la Paix pourront adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances conviées à la Deuxième Conférence de la Paix copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE [LX.] XCIV.

Les conditions auxquelles les Puissances qui n'ont pas été [représentées] *conviées* à la *deuxième* Conférence [Internationale] de la Paix, pourront adhérer à la présente Convention, formeront l'objet d'une entente ultérieure entre les Puissances Contractantes.

ARTICLE XCV.

La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE XCVI.

S'il arrivait qu'une des Puissances Contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XCVII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article XCII., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article XCIII., alinéa 2) ou de dénonciation (Article XCVI., alinéa 1).

Chaque Puissance Contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

they must make known their adhesion to the Contracting Powers by a written notification addressed to the Netherland Government, and communicated by it to all the other Contracting Powers.]

ARTICLE XCIII.

Non-Signatory Powers which were convened to the Second Peace Conference shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the act of adhesion which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers which were convened to the Second Peace Conference a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE [LX.] XCIV.

The conditions on which the Powers who were not [represented at] *convened to* the *Second* [International] Peace Conference can adhere to the present Convention shall form the subject of a subsequent Agreement among the Contracting Powers.

ARTICLE XCV.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratification, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE XCVI.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect in respect of the Power having made it, and one year from the date on which the Netherland Government shall have received it.

ARTICLE XCVII.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of ratifications effected by virtue of Article XCII., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article XCIII., § 2), or of denunciation (Article XCVI., § 1).

Each Contracting Power shall have a right to examine this register, and to apply for certified extracts therefrom.

[ARTICLE LXI.

S'il arrivait qu'une des Hautes Parties Contractantes dénonçât la présente Convention, cette dénonciation ne produirait ses effets qu'un an après la notification faite par écrit au Gouvernement des Pays-Bas et communiquée immédiatement par celui-ci à toutes les autres Puissances Contractantes.

Cette dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.]

En foi de quoi les Plénipotentiaires ont [signé] *revêtu* la présente Convention [et l'ont revêtue] de leurs [sceaux] *signatures.*

Fait à La Haye [le vingt-neuf juillet mil huit cent quatre-vingt-dix-neuf], *18 octobre 1907*, en un seul exemplaire, qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies certifiées conformes, seront remises par la voie diplomatique aux Puissances Contractantes.

[*Signatures.*]

[ARTICLE LXI.

In the event of one of the High Contracting Parties denouncing the present Convention, this denunciation would not take effect until a year after its notification made in writing to the Netherland Government, and by it communicated at once to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.]

In faith of which the Plenipotentiaries have [signed] *affixed their signatures to* the present Convention [and affixed their seals to it].

Done at The Hague [the 29th July 1899], *the 18th October 1907*, in a single copy, which shall remain deposited in the archives of the Netherland Government, and copies of it, duly certified, shall be sent through the diplomatic channel to the Contracting Powers.

[*Signatures.*]

(2) CONVENTION ON THE LIMITATION OF THE EMPLOYMENT OF FORCE FOR THE RECOVERY OF CONTRACTUAL DEBTS

(Convention concernant la limitation de l'emploi de la force pour le recouvrement de dettes contractuelles)

(*Noms des Hautes Parties Contractantes.*)

Désireux d'éviter entre les nations des conflits armés d'une origine pécuniaire, provenant de dettes contractuelles, réclamées au Gouvernement d'un pays par le Gouvernement d'un autre pays comme dues à ses nationaux,

Ont résolu de conclure une Convention à cet effet et ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Les Puissances contractantes sont convenues de ne pas avoir recours à la force armée pour le recouvrement de dettes contractuelles réclamées au Gouvernement d'un pays par le Gouvernement d'un autre pays comme dues à ses nationaux.

Toutefois, cette stipulation ne pourra être appliquée quand l'État débiteur refuse ou laisse sans réponse une offre d'arbitrage, ou, en cas d'acceptation, rend impossible l'établissement du compromis, ou, après l'arbitrage, manque de se conformer à la sentence rendue.

ARTICLE II.

Il est de plus convenu que l'arbitrage, mentionné dans l'alinéa 2 de l'article précédent, sera soumis à la procédure prévue par le titre IV. chapitre 3 de la Convention de La Haye pour le règlement pacifique des conflits internationaux. Le jugement arbitral détermine, sauf les arrangements particuliers des Parties, le bien-fondé de la réclamation, le montant de la dette, le temps et le mode de paiement.

ARTICLE III.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

(*Names of the High Contracting Parties.*)

Desirous of avoiding between nations armed conflicts having their origin in pecuniary matters arising out of contractual debts, claimed from the Government of one country by the Government of another country as due to its subjects,

Have resolved to conclude a Convention for this purpose, and have appointed as their Plenipotentiaries :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and proper form, have agreed on the following provisions :

ARTICLE I.

The Contracting Powers have agreed not to have recourse to armed force for the recovery of contractual debts claimed from the Government of one country by the Government of another country as due to its subjects.

Nevertheless, this stipulation is not applicable when the debtor State refuses or leaves unanswered an offer of arbitration, or, in case of acceptance, renders the settlement of the *compromis* impossible, or, after arbitration, fails to comply with the award.

ARTICLE II.

It is also agreed that the arbitration mentioned in § 2 of the preceding article shall be subject to the procedure provided by Title IV. chap. 3 of The Hague Convention for the pacific settlement of international disputes. The arbitral award shall decide, subject to special arrangements by the parties, on the justice of the claim, the amount of the debt, the time and mode of payment.

ARTICLE III.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procés-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bas et par la voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE IV.

Les Puissances non-Signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances conviées à la Deuxième Conférence de la Paix copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE V.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt, pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE VI.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE VII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and through the diplomatic channel to the Powers convened to the Second Peace Conference as well as to the other Powers which shall have adhered to the Convention. In the case referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE IV.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the acts of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers convened to the Second Peace Conference a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE V.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE VI.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it, and one year from the date on which the Netherland Government shall have received it.

ARTICLE VII.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of

vertu de l'Article III., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article IV., alinéa 2) ou de dénonciation (Article VI., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies certifiées conformes seront remises par la voie diplomatique aux Puissances contractantes.

Article III., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article IV., § 2) or of denunciation (Article VI., § 1).

Each contracting Power shall have the right to examine this register and to claim certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channel to the Powers who have been convened to the Second Peace Conference.

(3) CONVENTION RELATING TO THE COMMENCEMENT OF HOSTILITIES

(Convention relative à l'Ouverture des Hostilités)

(*Noms des Hautes Parties Contractantes.*)

Considérant que, pour la sécurité des relations pacifiques, il importe que les hostilités ne commencent pas sans un avertissement préalable ;

Qu'il importe, de même, que l'état de guerre soit notifié sans retard aux Puissances neutres ;

Désirant conclure une Convention à cet effet, ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Les Puissances contractantes reconnaissent que les hostilités entre elles ne doivent pas commencer sans un avertissement préalable et non équivoque, qui aura, soit la forme d'une déclaration de guerre motivée, soit celle d'un ultimatum avec déclaration de guerre conditionnelle.

ARTICLE II.

L'état de guerre devra être notifié sans retard aux Puissances neutres et ne produira effet à leur égard qu'après réception d'une notification qui pourra être faite même par voie télégraphique. Toutefois les Puissances neutres ne pourraient invoquer l'absence de notification, s'il était établi d'une manière non douteuse qu'en fait elles connaissaient l'état de guerre.[1]

ARTICLE III.

L'Article I. de la présente Convention produira effet en cas de guerre entre deux ou plusieurs des Puissances contractantes.

L'Article II. est obligatoire dans les rapports entre un belligérant contractant et les Puissances neutres également contractantes.

ARTICLE IV.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

(*Names of the High Contracting Parties.*)

Considering that, for the security of peaceful relations, it is important that hostilities should not be commenced without previous notice ;

That it is also important that a state of war should be notified to neutral Powers without delay ;

Desiring to conclude a Convention for this purpose, have appointed as their Plenipotentiaries :

(*Names and Description of the Plenipotentiaries.*)

Who, after having deposited their full powers, found to be in good and proper form, have agreed as follows :

ARTICLE I.

The Contracting Powers agree that hostilities shall not commence between them without previous and unequivocal notice, which shall be in the form either of a declaration of war stating its grounds, or of an ultimatum with a conditional declaration of war.

ARTICLE II.

The state of war shall be notified without delay to the neutral Powers, and shall only take effect with respect to them after receipt of notice, which may even be sent by telegraph. Neutral Powers, however, cannot set up the absence of notification, if it be shown that they unquestionably were cognisant of the state of war.[1]

ARTICLE III.

Article I. of the present Convention shall be operative in case of war between two or more of the Contracting Powers.

Article II. is obligatory in the relations between a contracting belligerent and neutral Powers also contracting.

ARTICLE IV.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

[1] This paragraph opens up a wide field for disputes with neutrals, and should be struck out if the Convention be amended at the next Conference. Such a qualification impairs the cogency of the obligation the Conference sought to impose on belligerents.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent ainsi que des instruments de ratification, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE V.

Les Puissances non-Signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE VI.

La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt, et, pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE VII.

S'il arrivait qu'une des Hautes Parties contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein and by the Netherland Minister of Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and through the diplomatic channel to the Powers convened to the Second Peace Conference as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE V.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the Acts of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the Act of adhesion, and indicate the date at which it received the notification.

ARTICLE VI.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE VII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it, and one year from the date on which the Netherland Government shall have received it.

ARTICLE VIII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article IV., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article V., alinéa 2) ou de dénonciation (Article VII., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le 18 octobre 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

ARTICLE VIII.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Article IV., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article V., § 2) or of denunciation (Article VII., § 1).

Each Contracting Power shall have the right to examine this register and to claim certified extracts therefrom.

In faith of which the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channel to the Powers who have been convened to the Second Peace Conference.

(4) CONVENTION WITH RESPECT TO THE LAWS AND CUSTOMS OF WAR ON LAND

(Convention concernant les lois et coutumes de la guerre sur terre)

(NOTE.—*The passages between square brackets are the parts of the Convention and Regulations of* 1899 *which have been suppressed. Those in italics are the additions and alterations made by the Convention of* 1907)

(*Noms des Hautes Parties Contractantes.*)

Considérant que, tout en recherchant les moyens de sauvegarder la paix et de prévenir les conflits armés entre les nations, il importe de se préoccuper également du cas où l'appel aux armes serait amené par des événements que leur sollicitude n'aurait pu détourner ;

Animés du désir de servir encore, dans cette hypothèse extrême, les intérêts de l'humanité et les exigences toujours progressives de la civilisation ;

Estimant qu'il importe, à cette fin, de reviser les lois et coutumes générales de la guerre, soit dans le but de les définir avec plus de précision, soit afin d'y tracer certaines limites destinées à en restreindre autant que possible les rigueurs ;

[S'inspirant de ces vues recommandées aujourd'hui, comme il y a vingt-cinq ans, lors de la Conférence de Bruxelles de 1874, par une sage et généreuse prévoyance ;

[Ont, dans cet esprit, adopté un grand nombre de dispositions qui ont pour objet de définir et de régler les usages de la guerre sur terre ;]

Ont jugé nécessaire de compléter et de préciser sur certains points l'œuvre de la Première Conférence de la Paix qui, s'inspirant, à la suite de la Conférence de Bruxelles de 1874, *de ces idées recommandées par une sage et généreuse prévoyance, a adopté des dispositions ayant pour objet de définir et de régler les usages de la guerre sur terre.*

Selon les vues des Hautes Parties Contractantes, ces dispositions, dont la rédaction a été inspirée par le désir de diminuer les maux de la guerre, autant que les nécessités militaires le permettent, sont destinées à servir de règle générale de conduite aux belligérants, dans leurs rapports entre eux et avec les populations

Il n'a pas été possible toutefois de concerter dès maintenant des stipulations s'étendant à toutes les circonstances qui se présentent dans la pratique ;

D'autre part, il ne pouvait entrer dans les intentions des Hautes Parties Contractantes que les cas non prévus fussent,

(*Names of High Contracting Parties.*)

Considering that, while seeking means to preserve peace and prevent armed conflicts among nations, it is likewise necessary to have regard to cases where an appeal to arms may be caused by events which their solicitude could not avert ;

Animated by the desire to serve, even in this extreme hypothesis, the interests of humanity and the ever-increasing requirements of civilisation ;

Thinking it important, with this object, to revise the laws and general customs of war, either with the view of defining them more precisely, or of laying down certain limits for the purpose of modifying their severity as far as possible ;

[Inspired by these views which are enjoined at the present day, as they were twenty-five years ago at the time of the Brussels Conference in 1874, by a wise and generous foresight ;

[Have, in this spirit, adopted a great number of provisions, the object of which is to define and govern the usages of war on land ;]

Have thought it necessary to complete and to give precision on certain points to the work of the First Peace Conference, which, following the Brussels Conference of 1874, *sought inspiration from views suggested by a wise and generous foresight, and adopted provisions having for their object the definition and regulation of the usages of war on land.*

In the view of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war so far as military necessities permit, are destined to serve as general rules of conduct for belligerents in their relations with each other and with populations ;

It has not, however, been possible to agree forthwith on provisions embracing all the circumstances which occur in practice ;

On the other hand, it could not be intended by the High Contracting Parties that the cases not provided for should, for want of a written provision, be left to the arbitrary judgment of the military Commanders ;

faute de stipulation écrite, laissés à l'appréciation arbitraire de ceux qui dirigent les armées ;

En attendant qu'un code plus complet des lois de la guerre puisse être édicté, les Hautes Parties Contractantes jugent opportun de constater que, dans les cas non compris dans les dispositions réglementaires adoptées par Elles, les populations et les belligérants restent sous la sauvegarde et sous l'empire des principes du droit des gens, tels qu'ils résultent des usages établis entre nations civilisées, des lois de l'humanité, et des exigences de la conscience publique ;

Elles déclarent que c'est dans ce sens que doivent s'entendre notamment les Articles I. et II. du Règlement adopté ;

Les Hautes Parties Contractantes, désirant conclure une Convention à cet effet, ont nommé pour leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après [s'être communiqué] *avoir déposé* leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit :

ARTICLE I.

Les [Hautes Parties] *Puissances* Contractantes donneront à leurs forces armées de terre des instructions qui seront conformes au Règlement concernant les Lois et Coutumes de la Guerre sur Terre, annexé à la présente Convention.

ARTICLE II.

[Les dispositions contenues dans le Règlement visé a l'Article I. ne sont obligatoires que pour les Puissances Contractantes en cas de guerre entre deux ou plusieurs d'entre elles.

Ces dispositions cesseront d'être obligatoires du moment où, dans une guerre entre des Puissances Contractantes, une Puissance non contractante se joindrait à l'un des belligérants.]

Les dispositions contenues dans le Règlement visé à l'Article I.er ainsi que dans la présente Convention, ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE III.

[La présente Convention sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à La Haye.

Il sera dressé du dépôt de chaque ratification un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances Contractantes.]

La Partie belligérante qui violerait les dispositions dudit Règlement sera tenue à indemnité, s'il y a lieu. Elle sera responsable de tous actes commis par les personnes faisant parti de sa force armée.

Until a more complete code of the laws of war is issued, the High Contracting Parties think it right to declare that in cases not included in the Regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilised nations, from the laws of humanity, and the requirements of the public conscience ;

They declare that it is in this sense especially that Articles I. and II. of the Regulations adopted must be understood ;

The High Contracting Parties, desiring to conclude a Convention to this effect, have appointed as their Plenipotentiaries :

(*Names and Description of Plenipotentiaries.*)

Who, after [communication of] *having deposited* their full powers, found in good and due form, have agreed on the following provisions :

ARTICLE I.

The [High] Contracting [Parties] *Powers* shall issue instructions to their armed land forces, which shall be in conformity with the Regulations respecting the Laws and Customs of War on Land annexed to the present Convention.

ARTICLE II.

[The provisions contained in the Regulations mentioned in Article I. are obligatory only as between the Contracting Powers in case of war between two or several of them.

These provisions would no longer be binding, in case of war between Contracting Powers, as soon as a non-Contracting Power would join hands with one of the belligerents.]

The provisions contained in the Regulations mentioned in Article I. [are], *as well as those contained in the present Convention, are only applicable as between the Contracting Powers, and only if the belligerents are all parties to the Convention.*

ARTICLE III.

[The present Convention will be ratified within the shortest possible delay.

The ratifications will be deposited at The Hague.

A minute will be made of the deposit of every ratification, and a duly certified copy thereof will be sent through the diplomatic channel to all the Contracting Parties.]

The belligerent Party who shall violate the provisions of the said Regulations shall be bound, if the case arises, to pay an indemnity. It shall be responsible for all acts done by persons forming part of its armed forces.

ARTICLE IV.

[Les Puissances non-Signataires sont admises à adhérer à la présente Convention.

Elles auront, à cet effet, à faire connaître leur adhésion aux Puissances Contractantes, au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas, et communiquée par celui-ci à toutes les autres Puissances Contractantes.]

La présente Convention dûment ratifiée remplacera, dans les rapports entre les Puissances contractantes, la Convention du 29 *juillet* 1899 *concernant les lois et coutumes de la guerre sur terre.*

La Convention de 1899 *reste en vigueur dans les rapports entre les Puissances qui l'ont signée et qui ne ratifieraient pas également la présente Convention.*

ARTICLE V.

[S'il arrivait qu'une des Hautes Parties Contractantes dénonçât la présente Convention, cette dénonciation ne produirait ses effets qu'un an après la notification faite par écrit au Gouvernement des Pays-Bas, et communiquée immédiatement par celui-ci à toutes les autres Puissances Contractantes.

Cette dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.]

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Erangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'uen notification écrite adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent ainsi que des instruments de ratification, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE VI.

Les Puissances non-Signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi

ARTICLE IV.

[*The non-Signatory Powers shall be allowed to adhest to the present Convention.*

For this purpose, they shall advise the Contracting Powers of their adhesion, by means of a written notice sent to the Netherland Government, and communicated by the latter to all the other Contracting Powers.]

The present Convention, duly ratified, shall take the place, in the relations between the Contracting Powers, of the Convention of 29th July 1899, *relating to the laws and customs of war on land.*

The Convention of 1899 *remains in force in the relations between the Powers who signed it and who do not also ratify the present Convention.*

ARTICLE V.

[*In case one of the High Contracting Parties denounced the present Convention, this denunciation would take effect only a year after the written notice given to the Netherland Government, and communicated by the latter to all the other Contracting Powers.*

This denunciation will be operative only as regards the Power making it.]

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein and by the Netherland Minister for Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government, and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and through the diplomatic channel to the Powers convened to the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE VI.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention by writing to the Netherland Government, and shall transmit to the latter the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE VII.

La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE VIII.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE IX.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article V., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article VI., alinéa 2) ou de dénonciation (Article VIII., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiée conformes.

[En foi de quoi les Plénipotentiaires ont signé la présente Convention et l'ont revêtue de leurs cachets.]

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le dix huit octobre, mil neuf cent sept, en un seul exemplaire, qui restera déposé dans les archives du Gouvernement des Pays-Bas, et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances [Contractantes] *qui ont été conviées à la deuxième Conférence de la Paix.*

(*Signatures.*)

ARTICLE VII.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of the ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE VIII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it one year from the date on which the Netherland Government shall have received it.

ARTICLE IX.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Art. V., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Art., VII., § 2) or of denunciation (Art. VIII., § 1).

Each Contracting Power shall have the right to examine this register and to claim certified extracts therefrom.

[*In faith of which, the Plenipotentiaries have signed the present Convention and affixed their seals thereto.*]

In faith of which, the Plenipotentiaries have signed the present Convention.

Done at The Hague [the 29th July 1899] *the 18th October* 1907, in a single copy, which shall be kept in the archives of the Netherland Government, and copies of which, duly certified, shall be delivered to the [Contracting] Powers through the diplomatic channel.

(*Signatures.*)

Annexe à la Convention.

Règlement concernant les Lois et Coutumes de la Guerre sur Terre.

Section I.—*Des Belligérants.*

Chapitre I.—*De la Qualité de Belligérant.*

Article 1. Les lois, les droits, et les devoirs de la guerre ne s'appliquent pas seulement à l'armée, mais encore aux milices et aux corps de volontaires réunissant les conditions suivantes :

1. D'avoir à leur tête une personne responsable pour ses subordonnés ;

2. D'avoir un signe distinctif, fixe, et reconnaissable à distance ;

3. De porter les armes ouvertement ; et

4. De se conformer dans leurs opérations aux lois et coutumes de la guerre.

Dans les pays ou les milices ou des corps de volontaires constituent l'armée ou en font partie, ils sont compris sous la dénomination "d'armée."

Art. 2. La population d'un territoire non occupé qui, à l'approche de l'ennemi, prend spontanément les armes pour combattre les troupes d'invasion sans avoir eu le temps de s'organiser conformément à l'Article I., sera considérée comme belligérante si elle *porte les armes ouvertement et si elle* respecte les lois et coutumes de la guerre.

Art. 3. Les forces armées des parties belligérantes peuvent se composer de combattants et de non-combattants. En cas de capture par l'ennemi, les uns et les autres ont droit au traitement des prisonniers de guerre.

Chapitre II.—*Des Prisonniers de Guerre.*

Art. 4. Des prisonniers de guerre sont au pouvoir du Gouvernement ennemi, mais non des individus ou des corps qui les ont capturés.

Ils doivent être traités avec humanité.

Tout ce qui leur appartient personnellement, excepté les armes, les chevaux, et les papiers militaires, reste leur propriété.

Art. 5. Les prisonniers de guerre peuvent être assujettis à l'internement dans une ville, forteresse, camp, ou localité quelconque, avec obligation de ne pas s'en éloigner au delà de certaines limites déterminées ; mais ils ne peuvent être enfermé que par mesure de sûreté indispensable *et seulement pendant la durée des circonstances qui nécessitent cette mesure.*

Appendix to the Convention.

Regulations respecting the Laws and Customs of War on Land.

Section I.—*Of Belligerents.*

Chapter I.—*On the Status of Belligerent.*

Article 1. The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps, fulfilling the following conditions :

1. To be commanded by a person responsible for his subordinates ;

2. To have a fixed distinctive emblem recognisable at a distance ;

3. To carry arms openly ; and

4. To conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination "army."

Art. 2. The population of a territory which has not been occupied who, on the enemy's approach, spontaneously take up arms to resist the invading troops without having time to organise themselves in accordance with Article I., shall be regarded as belligerent, if they *carry arms openly and* respect the laws and customs of war.

Art. 3. The armed forces of the belligerent parties may consist of combatants and non-combatants. In case of capture by the enemy both have a right to be treated as prisoners of war.

Chapter II.—*On Prisoners of War.*

Art. 4. Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property.

Art. 5. Prisoners of war may be interned in a town, fortress, camp, or any other locality, and bound not to go beyond certain fixed limits ; but they can only be confined as an indispensable measure of safety, *and only so long as circumstances necessitating this measure shall endure.*

Art. 6. L'État peut employer, comme travailleurs, les prisonniers de guerre, selon leur grade et leurs aptitudes *à l'exception des officiers*. Ces travaux ne seront pas excessifs, et n'auront aucun rapport avec les opérations de la guerre.

Les prisonniers peuvent être autorisées à travailler pour le compte d'Administrations publiques ou de particuliers, ou pour leur propre compte.

Les travaux faits pour l'État sont payés d'après les tarifs en vigueur pour les militaires de l'armée nationale exécutant les mêmes travaux, *ou, s'il n'en existe pas, d'après un tarif en rapport avec les travaux exécutés.*

Lorsque les travaux ont lieu pour le compte d'autres Administrations publiques, ou pour des particuliers, les conditions en sont réglées d'accord avec l'autorité militaire.

Le salaire des prisonniers contribuera à adoucir leur position, et le surplus leur sera compté au moment de leur libération, sauf défalcation des frais d'entretien.

Art. 7. Le Gouvernement au pouvoir duquel se trouvent les prisonniers de guerre est chargé de leur entretien.

A défaut d'une entente spéciale entre les belligérants, les prisonniers de guerre seront traités, pour la nourriture, le couchage, et l'habillement, sur le même pied que les troupes du Gouvernement qui les aura capturés.

Art. 8. Les prisonniers de guerre seront soumis aux lois, règlements, et ordres en vigueur dans l'armée de l'État au pouvoir duquel ils se trouvent. Tout acte d'insubordination autorise, à leur égard, les mesures de rigueur nécessaires.

Les prisonniers évadés, qui seraient repris avant d'avoir pu rejoindre leur armée, ou avant de quitter le territoire occupé par l'armée qui les aura capturés, sont passibles de peines disciplinaires.

Les prisonniers qui, après avoir réussi à s'évader, sont de nouveau faits prisonniers, ne sont passibles d'aucune peine pour la fuite antérieure.

Art. 9. Chaque prisonnier de guerre est tenu de déclarer, s'il est interrogé à ce sujet, ses véritables noms et grade, et, dans le cas où il enfreindrait cette règle, il s'exposerait à une restriction des avantages accordés aux prisonniers de guerre de sa catégorie.

Art. 10. Les prisonniers de guerre peuvent être mis en liberté sur parole, si les lois de leur pays les y autorisent, et, en pareil cas, ils sont obligés, sous la garantie de leur honneur personnel, de remplir scrupuleusement, tant vis-à-vis de leur propre Gouvernement que vis-à-vis de celui qui les a faits prisonniers, les engagements qu'ils auraient contractés.

Dans le même cas, leur propre Gouvernement est tenu de n'exiger ni accepter d'eux aucun service contraire à la parole donnée.

Art. 6. The State may utilise the labour of prisoners of war according to their rank and aptitude, *with the exception of the officers*. Their tasks shall not be excessive, and shall have nothing to do with the military operations.

Prisoners may be authorised to work for the Public Service, for private persons, or on their own account.

Work done for the State shall be paid for according to the tariffs in force for soldiers of the national army employed on similar tasks, *or, if there are none in force, then according to a tariff suitable to the work executed.*

When the work is for other branches of the Public Service or for private persons, the conditions shall be settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance.

Art. 7. The Government into whose hands prisoners of war have fallen is bound to maintain them.

Failing a special agreement between the belligerents, prisoners of war shall be treated, as regards food, quarters, and clothing, on the same footing as the troops of the Government which has captured them.

Art. 8. Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State into whose hands they have fallen.

Any act of insubordination warrants the adoption, as regards them, of such measures of severity as may be necessary.

Escaped prisoners, recaptured before they have succeeded in rejoining their army, or before quitting the territory occupied by the army that captured them, are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping, are again taken prisoners, are not liable to any punishment for the previous flight.

Art. 9. Every prisoner of war, if questioned, is bound to declare his true name and rank, and if he disregards this rule, he is liable to a curtailment of the advantages accorded to the prisoners of war of his class.

Art. 10. Prisoners of war may be set at liberty on parole if the laws of their country authorise it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfil, both as regards their own Government and the Government by whom they were made prisoners, the engagements they have contracted.

In such cases, their own Government shall not require of nor accept from them any service incompatible with the parole given.

Art. 11. Un prisonnier de guerre ne peut être contraint d'accepter sa liberté sur parole ; de même le Gouvernement ennemi n'est pas obligé d'accéder à la demande du prisonnier réclamant sa mise en liberté sur parole.

Art. 12. Tout prisonnier de guerre, libéré sur parole, et repris portant les armes contre le Gouvernement envers lequel il s'était engagé d'honneur, ou contre les alliés de celui-ci, perd le droit au traitement des prisonniers de guerre, et peut être traduit devant les Tribunaux.

Art. 13. Les individus qui suivent une armée sans en faire directement partie, tels que les correspondants et les reporters de journaux, les vivandiers, les fournisseurs, qui tombent au pouvoir de l'ennemi, et que celui-ci juge utile de détenir, ont droit au traitement des prisonniers de guerre, à condition qu'ils soient munis d'une légitimation de l'autorité militaire de l'armée qu'ils accompagnaient.

Art. 14. Il est constitué, dès le début des hostilités, dans chacun des États belligérants, et le cas échéant, dans les pays neutres qui auront recueilli des belligérants sur leur territoire, un bureau de renseignements sur les prisonniers de guerre. Ce bureau, chargé de répondre à toutes les demandes qui les concernent, reçoit des divers services compétents toutes les indications [nécessaires pour lui permettre d'établir une fiche individuelle pour chaque prisonnier de guerre. Il est tenu au courant des internements et des mutations, ainsi que des entrées dans les hôpitaux et des décès] *relatives aux internements et aux mutations, aux mises en liberté sur parole, aux échanges, aux évasions, aux entrées dans les hôpitaux, aux décès, ainsi que les autres renseignements nécessaires pour établir et tenir à jour une fiche individuelle pour chaque prisonnier de guerre. Le bureau devra porter sur cette fiche le numéro matricule, les nom et prénom, l'âge, le lieu d'origine, le grade, le corps de troupe, les blessures, la date et le lieu de la capture, de l'internement, des blessures et de la mort, ainsi que toutes les observations particulières. La fiche individuelle sera remise au Gouvernement de l'autre belligérant après la conclusion de la paix.*

Le bureau de renseignements est également chargé de recueillir et de centraliser tous les objets d'un usage personnel, valeurs, lettres, &c., qui seront trouvés sur les champs de bataille ou délaissés par des prisonniers *libérés sur parole, échangés, évadés ou* décédés dans les hôpitaux et ambulances, et de les transmettre aux intéressés.

Art. 15. Les Sociétés de Secours pour les prisonniers de guerre, régulièrement constituées selon la loi de leur pays, et ayant pour objet d'être les intermédiaires de l'action charitable, recevront, de la part des belligérants, pour elles et pour leurs

Art. 11. A prisoner of war cannot be forced to accept his liberty on parole ; similarly the hostile Government is not obliged to assent to the prisoner's request to be set at liberty on parole.

Art. 12. Any prisoner of war, who is liberated on parole and recaptured, bearing arms against the Government to whom he had pledged his honour, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the Courts.

Art. 13. Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers, contractors, who fall into the enemy's hands, and whom the latter think fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying.

Art. 14. A Bureau for information relative to prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States and, when necessary, in the neutral countries on whose territory belligerents have been received. This Bureau is intended to answer all inquiries about prisoners of war, and is furnished by the various services concerned with all the information [necessary to make out an individual return of every prisoner of war. It is kept informed of internments and changes, also of admissions to hospital and of deaths] *relating to internments and changes, to releases on parole, to exchanges, to escapes, to admissions to hospital, as well as other particulars, to enable it to keep from day to day an individual return for each prisoner of war. The Bureau must enter on this return the regimental number, the name and fore-name, age, place of origin, rank, corps, wounds, date and place of capture, of internment, of wounds, and of death, as well as any special observations. Each return shall be forwarded to the Government of the other belligerent after the conclusion of peace.*

It is also the duty of the Information Bureau to receive and collect all objects of personal use, valuables, letters, &c., found on the battlefields or left by prisoners who have *been liberated on parole, exchanged or have escaped or* died in hospital or ambulance, and to transmit them to those interested.

Art. 15. Relief Societies for prisoners of war, which are regularly constituted in accordance with the law of the country with the object of serving as the intermediary for charity, shall receive from the belligerents for

agents dûment accrédités, toute facilité, dans les limites tracées par les nécessités militaires et les règles administratives, pour accomplir efficacement leur tâche d'humanité. Les délégués de ces Sociétés pourront être admis à distribuer des secours dans les dépôts d'internement, ainsi qu'aux lieux d'étape des prisonniers rapatriés, moyennant une permission personnelle délivrée par l'autorité militaire, et en prenant l'engagement par écrit de se soumettre à toutes les mesures d'ordre et de police que celle-ci prescrirait.

Art. 16. Les bureaux de renseignements jouissent de la franchise de port. Les lettres, mandats, et articles d'argent, ainsi que les colis postaux destinés aux prisonniers de guerre ou expédiés par eux, seront affranchis de toutes taxes postales, aussi bien dans les pays d'origine et de destination que dans les pays intermédiaires.

Les dons et secours en nature destinés aux prisonniers de guerre seront admis en franchise de tous droits d'entrée et autres, ainsi que des taxes de transport sur les chemins de fer exploités par l'État.

Art. 17. [Les officiers prisonniers pourront recevoir le complément, s'il y a lieu, de la solde qui leur est attribuée dans cette situation par les règlements de leur pays, à charge de remboursement par leur Gouvernement.]

Les officiers prisonniers recevront la solde à laquelle ont droit les officiers de même grade du pays où ils sont retenus, à charge de remboursement par leur Gouvernement.

Art. 18. Toute latitude est laissée aux prisonniers de guerre pour l'exercice de leur religion, y compris l'assistance aux offices de leur culte, à la seule condition de se conformer aux mesures d'ordre et de police prescrites par l'autorité militaire.

Art. 19. Les testaments de prisonniers de guerre sont reçus ou dressés dans les mêmes conditions que pour les militaires de l'armée nationale.

On suivra également les mêmes règles en ce qui concerne les pièces relatives à la constatation des décès, ainsi que pour l'inhumation des prisonniers de guerre, en tenant compte de leur grade et de leur rang.

Art. 20. Après la conclusion de la paix, le rapatriement des prisonniers de guerre s'effectuera dans le plus bref délai possible.

Chapitre III.—*Des Malades et des Blessés.*

Art. 21. Les obligations des belligérants concernant le service des malades et des blessés sont régies par la Convention de Genève [du 22 Août, 1864, sauf les modifications dont celle-ci pourra être l'objet].[1]

themselves and their duly accredited agents every facility, within the bounds of military requirements and Administrative Regulations, for the effective accomplishment of their humane task. Delegates of these Societies may be admitted to the places of internment for the distribution of relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an engagement in writing to comply with all their Regulations for order and police.

Art. 16. The Information Bureau shall have the privilege of free postage. Letters, money orders, and valuables, as well as postal parcels destined for the prisoners of war or despatched by them, shall be free of all postal duties, both in the countries of origin and destination, as well as in those they pass through.

Gifts and relief in kind for prisoners of war shall be admitted free of all duties of entry and others, as well as of payments for carriage by the Government railways.

Art. 17. [Officers taken prisoners can receive the balance, if need be, of the pay allowed to them in this situation by the regulations of their country, the amount to be repaid by their Government.]

Officers taken prisoners *shall receive the full pay to which officers of the same grade in the country where they are detained are entitled*, the amount to be repaid by their Government.

Art. 18. Prisoners of war shall enjoy every latitude in the exercise of their religion, including attendance at their own church services, provided only they comply with the regulations for order and police issued by the military authorities.

Art. 19. The wills of prisoners of war are received or drawn up on the same conditions as for soldiers of the national army.

The same rules shall be observed regarding death certificates, as well as for the burial of prisoners of war, due regard being paid to their grade and rank.

Art. 20. After the conclusion of peace, the repatriation of prisoners of war shall take place as speedily as possible.

Chapter III.—*On the Sick and Wounded.*

Art. 21. The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention [of the 22nd August, 1864, subject to any modifications which may be introduced into it].

[1] See the text of the revised Geneva Convention, p. 277

Section II.—*Des Hostilités.*

Chapitre I.—*Des Moyens de Nuire à l'Ennemi, des Sièges, et des Bombardements.*

Art. 22. Les belligérants n'ont pas un droit illimité quant au choix des moyens de nuire à l'ennemi.

Art. 23. Outre les prohibitions établies par des conventions spéciales, il est notamment interdit—

(*a.*) D'employer du poison ou des armes empoisonnées ;

(*b.*) De tuer ou de blesser par trahison des individus appartenant à la nation ou à l'armée ennemie ;

(*c.*) De tuer ou de blesser un ennemi qui, ayant mis bas les armes, ou n'ayant plus les moyens de se défendre, s'est rendu à discrétion ;

(*d.*) De déclarer qu'il ne sera pas fait de quartier ;

(*e.*) D'employer des armes, des projectiles ou des matières propres à causer des maux superflus ;

(*f.*) D'user indûment du pavillon parlementaire, du pavillon national, ou des insignes militaires et de l'uniforme de l'ennemi, ainsi que des signes distinctifs de la Convention de Genève ;

(*g.*) De détruire ou de saisir des propriétés ennemies, sauf les cas où ces destructions ou ces saisies seraient impérieusement commandées par les nécessités de la guerre.

(*h.*) *De déclarer éteints, suspendus ou non recevables en justice, les droits et actions des nationaux de la Partie adverse.*

Il est également interdit à un belligérant de forcer les nationaux de la Partie adverse à prendre part aux opérations de guerre dirigées contre leur pays, même dans le cas où ils auraient été à son [1] *service avant le commencement de la guerre.*

Art. 24. Les ruses de guerre et l'emploi de moyens nécessaires pour se procurer des renseignements sur l'ennemi et sur le terrain sont considérés comme licites.

Art. 25. Il est interdit d'attaquer ou de bombarder *par quelque moyen que ce soit* des villes, villages, habitations, ou bâtiments qui ne sont pas défendus.

Art. 26. Le Commandant des troupes assaillantes, avant d'entreprendre le bombardement, et sauf le cas d'attaque de vive force, devra faire tout ce qui dépend de lui pour en avertir le autorités.

Art. 27. Dans les sièges et bombardements, toutes les mesures nécessaires doivent être prises pour épargner, autant que possible, les édifices consacrés aux cultes, aux arts, aux sciences, et à la bienfaisance, les hôpitaux, et les lieux de rassemblement de malades et de blessés, à condition qu'ils ne soient pas employés en même temps à un but militaire.

Le devoir des assiégés est de désigner ces édifices ou lieux de rassemblement par des signes visibles spéciaux qui seront notifiés d'avance à l'assiégeant.

Section II.—*On Hostilities.*

Chapter I.—*On Means of Injuring the Enemy, Sieges, and Bombardments.*

Art. 22. The right of belligerents to adopt means of injuring the enemy is not unlimited.

Art. 23. Besides the prohibitions provided by special Convention, it is especially prohibited—

(*a.*) To employ poison or poisoned arms ;

(*b.*) To kill or wound treacherously individuals belonging to the hostile nation or army ;

(*c.*) To kill or wound an enemy who, having laid down arms, or having no longer means of defence, has surrendered at discretion ;

(*d.*) To declare that no quarter will be given ;

(*e.*) To employ arms, projectiles, or material of a nature to cause superfluous injury ;

(*f.*) To make improper use of a flag of truce, the national flag or military ensigns and the enemy's uniform, as well as the distinctive badges, of the Geneva Convention ;

(*g.*) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessitie of war.

(*h.*) *To declare extinguished, suspended, or non-receivable in justice, the claims and actions of the natives of the adversary.*

It is also forbidden to a belligerent to compel the natives of the adversary to take part in war operations directed against their country even if they were in his [1] *service before the commencement of the war.*

Art. 24. Ruses of war and the employment of methods necessary to obtain information about the enemy and the country, are considered allowable.

Art. 25. The attack or bombardment, *by any means whatever*, of towns, villages, habitations, or buildings which are not defended, is prohibited.

Art. 26. The commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities.

Art. 27. In sieges and bombardments all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals, and places where the sick and wounded are collected, provided they are not used at the same time for military purposes.

The besieged should indicate these buildings or places by some particular and visible signs, which should previously be notified to the assailants.

[1] This is not clearly expressed, but the sense requires that the service of the belligerent in question should be meant.

Art. 28. Il est interdit de livrer au pillage [même] une ville ou localité *même* prise d'assaut.

Chapitre II.—*Des Espions.*

Art. 29. Ne peut être considéré comme espion que l'individu qui, agissant clandestinement, ou sous de faux prétextes, recueille, ou cherche à recueillir, des informations dans la zone d'opérations d'un belligérant, avec l'intention de les communiquer à la partie adverse.

Ainsi les militaires non déguisés qui ont pénétré dans la zone d'opérations de l'armée ennemie, à l'effet de recueillir des informations, ne sont pas considérés comme espions. De même, ne sont pas considérés comme espions : les militaires et les non-militaires, accomplissant ouvertement leur mission, chargés de transmettre des dépêches destinées soit à leur propre armée, soit à l'armée ennemie. A cette catégorie appartiennent également les individus envoyés en ballon pour transmettre les dépêches, et, en général, pour entretenir les communications entre les diverses parties d'une armée ou d'un territoire.

Art. 30. L'espion pris sur le fait ne pourra être puni sans jugement préalable.

Art. 31. L'espion qui, ayant rejoint l'armée à laquelle il appartient, est capturé plus tard par l'ennemi, est traité comme prisonnier de guerre, et n'encourt aucune responsabilité pour ses actes d'espionnage antérieurs.

Chapitre III.—*Des Parlementaires.*

Art. 32. Est considéré comme parlementaire l'individu autorisé par l'un des belligérants à entrer en pourparlers avec l'autre et se présentant avec le drapeau blanc. Il a droit à l'inviolabilité, ainsi que le trompette, clairon, ou tambour, le porte-drapeau, et l'interprète qui l'accompagneraient.

Art. 33. Le chef auquel un parlementaire est expédié n'est pas obligé de le recevoir en toutes circonstances.

Il peut prendre toutes les mesures nécessaires afin d'empêcher le parlementaire de profiter de sa mission pour se renseigner.

Il a le droit, en cas d'abus, de retenir temporairement le parlementaire.

Art. 34. Le parlementaire perd ses droits d'inviolabilité s'il est prouvé, d'une manière positive et irrécusable, qu'il a profité de sa position privilégiée pour provoquer ou commettre un acte de trahison.

Chapitre IV.—*Des Capitulations.*

Art. 35. Les capitulations arrêtées entre les Parties Contractantes doivent tenir compte des règles de l'honneur militaire.

Art. 28. The pillage of a town or place, even when taken by assault, is prohibited.

Chapter II.—*On Spies.*

Art. 29. An individual can only be considered a spy if, acting clandestinely, or on false pretences, he obtains, or seeks to obtain, information in the zone of operations of a belligerent, with the intention of communicating it to the adverse party.

Thus, soldiers not in disguise who have penetrated into the zone of operations of a hostile army to obtain information are not considered spies. Similarly, the following are not considered spies: soldiers or civilians, carrying out their mission openly, charged with the delivery of despatches destined either for their own army or for that of the enemy. To this class belong likewise individuals sent in balloons to deliver despatches, and generally to maintain communication between the various parts of an army or a territory.

Art. 30. A spy taken in the act cannot be punished without previous trial.

Art. 31. A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage.

Chapter III.—*On Flags of Truce.*

Art. 32. An individual is considered as bearing a flag of truce who is authorised by one of the belligerents to enter into communication with the other, and who carries a white flag. He has a right to inviolability, as well as the trumpeter, bugler, or drummer, the flag-bearer, and the interpreter who may accompany him.

Art. 33. The chief to whom a flag of truce is sent is not obliged to receive it in all circumstances.

He can take all steps necessary to prevent the envoy taking advantage of his mission to obtain information.

In case of abuse, he has the right to detain the envoy temporarily.

Art. 34. The envoy loses his rights of inviolability if it is proved beyond doubt that he has taken advantage of his privileged position to provoke or commit an act of treachery.

Chapter IV.—*On Capitulations.*

Art. 35. Capitulations agreed on between the Contracting Parties must be in accordance with the rules of military honour.

Une fois fixées, elles doivent être scrupuleusement observées par les deux parties.

Chapitre V.—*De l'Armistice.*

Art. 36. L'armistice suspend les opérations de guerre par un accord mutuel des parties belligérantes. Si la durée n'en est pas déterminée, les parties belligérantes peuvent reprendre en tout temps les opérations, pourvu toutefois que l'ennemi soit averti en temps convenu, conformément aux conditions de l'armistice.

Art. 37. L'armistice peut être général ou local. Le premier suspend partout les opérations de guerre des États belligérants ; le second, seulement entre certaines fractions des armées belligérantes et dans un rayon déterminé.

Art. 38. L'armistice doit être notifié officiellement et en temps utile aux autorités compétentes et aux troupes. Les hostilités sont suspendues immédiatement après la notification ou au terme fixé.

Art. 39. Il dépend des Parties Contractantes de fixer, dans les clauses de l'armistice, les rapports qui pourraient avoir lieu, sur le théâtre de la guerre, avec les populations et entre elles.

Art. 40. Toute violation grave de l'armistice, par l'une des parties, donne à l'autre le droit de le dénoncer et même, en cas d'urgence, de reprendre immédiatement les hostilités.

Art. 41. La violation des clauses de l'armistice, par des particuliers agissant de leur propre initiative, donne droit seulement à réclamer la punition des coupables et s'il y a lieu, une indemnité pour les pertes éprouvées.

Section III.—*De l'Autorité Militaire sur le Territoire de l'État Ennemi.*

Art. 42. Un territoire est considéré comme occupé lorsqu'il se trouve placé de fait sous l'autorité de l'armée ennemie.

L'occupation ne s'étend qu'aux territoires où cette autorité est établie et en mesure de s'exercer.

Art. 43. L'autorité du pouvoir légal ayant passé de fait entre les mains de l'occupant, celui-ci prendra toutes les mesures qui dépendent de lui en vue de rétablir et d'assurer, autant qu'il est possible, l'ordre et la vie publics, en respectant, sauf empêchement absolu, les lois en vigueur dans le pays.

Art. 44. Il est interdit à un belligérant de forcer la population d'un territoire occupé *à donner des renseignements sur l'armée de l'autre belligérant ou sur ses moyens de défense.*

Art. 45. Il est interdit de contraindre la population d'un territoire occupé à prêter serment à la Puissance ennemie.

Art. 46. L'honneur et les droits de la famille, la vie des individus, et la propriété privée, ainsi que les convictions religieuses et l'exercice des cultes, doivent être respectés.

When once settled, they must be scrupulously observed by both the parties.

Chapter V.—*On Armistices.*

Art. 36. An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not fixed, the belligerent parties can resume operations at any time, provided always the enemy is warned within the time agreed upon, in accordance with the terms of the armistice.

Art. 37. An armistice may be general or local. The first suspends all military operations of the belligerent States ; the second, only those between certain fractions of the belligerent armies and in a fixed radius.

Art. 38. An armistice must be notified officially, and in good time, to the competent authorities and the troops. Hostilities are suspended immediately after the notification, or at a fixed date.

Art. 39. It is for the Contracting Parties to settle, in the terms of the armistice, what communications may be held, on the theatre of war, with the population and with each other.

Art. 40. Any serious violation of the armistice by one of the parties gives the other party the right to denounce it, and even, in case of urgency, to recommence hostilities at once.

Art. 41. A violation of the terms of the armistice by private individuals acting on their own initiative only confers the right of demanding the punishment of the offenders, and, if necessary, indemnity for the losses sustained.

Section III.—*Military Authority over Enemy Territory.*

Art. 42. Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation applies only to the territory where such authority is established, and in a position to assert itself.

Art. 43. The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Art. 44. Any compulsion of the population of occupied territory [to take part in military operations against its own country] *to give information respecting the army of the other belligerent or its means of defence* is prohibited.

Art. 45. Any pressure on the population of occupied territory to take the oath to the hostile Power is prohibited.

Art. 46. Family honours and rights, individual lives and private property, as well as religious convictions and liberty, must be respected.

La propriété privée ne peut pas être confisquée.

Art. 47. Le pillage est formellement interdit.

Art. 48. Si l'occupant prélève, dans le territoire occupé, les impôts, droits et péages établis au profit de l'État, il le fera, autant que possible, d'après les règles de l'assiette et de la répartition en vigueur, et il en résultera pour lui l'obligation de pourvoir aux frais de l'administration du territoire occupé dans la mesure où le Gouvernement légal y était tenu.

Art. 49. Si, en dehors des impôts visés à l'Article précédent, l'occupant prélève d'autres contributions en argent dans le territoire occupé, ce ne pourra être que pour les besoins de l'armée ou de l'administration de ce territoire.

Art. 50. Aucune peine collective, pécuniaire, ou autre, ne pourra être édictée contre les populations à raison de faits individuels dont elles ne pourraient être considérées comme solidairement responsables.

Art. 51. Aucune contribution ne sera perçue qu'en vertu d'un ordre écrit et sous la responsabilité d'un Général-en-Chef.

Il ne sera procédé, autant que possible, à cette perception que d'après les règles de l'assiette et de la répartition des impôts en vigueur.

Pour toute contribution un reçu sera délivré aux contribuables.

Art. 52. Des réquisitions en nature et des services ne pourront être réclamés des communes ou des habitants que pour les besoins de l'armée d'occupation. Ils seront en rapport avec les ressources du pays et de telle nature qu'ils n'impliquent pas pour les populations l'obligation de prendre part aux opérations de la guerre contre leur patrie.

Ces réquisitions et ces services ne seront réclamés qu'avec l'autorisation du Commandant dans la localité occupée.

Les prestations en nature seront, autant que possible, payées au comptant ; sinon, elles seront constatées par des reçus *et le paiement des sommes dues sera effectué le plus tôt possible.*

Art. 53. L'armée qui occupe un territoire ne pourra saisir que le numéraire, les fonds et les valeurs exigibles appartenant en propre à État, les dépôts d'armes, moyens de transport, magasins et approvisionnements, et, en général, toute propriété mobilière de l'État de nature à servir aux opérations de la guerre.

[Le matériel de chemins de fer, les télégraphes de terre, les téléphones, les bateaux à vapeur et autres navires, en dehors des cas régis par la loi maritime, de même que les dépôts d'armes, et en général toute espèce de munitions de guerre, même appartenant à des Sociétés ou à des personnes privées, sont également des moyens de nature à servir aux opérations de la guerre, mais devront être restitués, et les indemnités seront réglées à la paix.]

Tous les moyens affectés sur terre, sur mer et dans les airs à la transmission des nouvelles, au transport des personnes ou des choses,

Private property cannot be confiscated.

Art. 47. Pillage is formally prohibited.

Art. 48. If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules of incidence and assessment in force, and will in consequence be bound to defray the expenses of the administration of the occupied territory on the same scale as that by which the legitimate Government was bound.

Art. 49. If, besides the taxes mentioned in the preceding Article, the occupant levies other money taxes in the occupied territory, this can only be for military necessities or the administration of such territory.

Art. 50. No general penalty, pecuniary or otherwise, can be inflicted on the population on account of the acts of individuals for which it cannot be regarded as collectively responsible.

Art. 51. No tax shall be collected except under a written order and on the responsibility of a Commander-in-Chief.

This collection shall only take place, as far as possible, in accordance with the rules of incidence and assessment of taxes in force.

For every payment a receipt shall be given to the tax-payer.

Art. 52. Neither requisitions in kind nor services can be demanded from districts or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their country.

These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.

The contributions in kind shall, as far as possible, be paid for in ready money ; if not, their receipt shall be acknowledged, *and the payments of the amounts due shall be made as soon as possible.*

Art. 53. An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

[Railway plant, land telegraphs, telephones, steamers, and other ships, apart from cases governed by maritime law, as well as depôts of arms, and, generally, all kinds of war material, even though belonging to companies or to private persons, are likewise material which may serve for military operations, but they must be restored at the conclusion of peace, and indemnities paid for them.]

All apparatus, on land, at sea, or in the air, serving as means for transmission of intelligence or for the transport of persons or things, except in cases

en dehors des cas régis par le droit maritime, les dépôts d'armes et, en général, toute espèce de munitions de guerre, peuvent être saisis, même s'ils appartiennent à des personnes privées, mais devront être restitués et les indemnités seront réglées à la paix.

[Art. 54. Le matériel des chemins de fer provenant d'États neutres, qu'il appartienne à ces États ou à des Sociétés ou personnes privées, leur sera renvoyé aussitôt que possible.][1]

Les câbles sous-marins reliant un territoire occupé à un territoire neutre ne seront saisis ou détruits que dans le cas d'une nécessité absolue. Ils devront également être restitués et les indemnités seront réglées à la paix.

Art. 55. L'État occupant ne se considérera que comme administrateur et usufruitier des édifices publics, immeubles, forêts, et exploitations agricoles appartenant à l'État ennemi et se trouvant dans le pays occupé. Il devra sauvegarder le fond de ces propriétés et les administrer conformément aux règles de l'usufruit.

Art. 56. Les biens de communes, ceux des établissements consacrés aux cultes, à la charité, et à l'instruction, aux arts et aux sciences, même appartenant à l'État, seront traités comme la propriéte privée.

Toute saisie, destruction, ou dégradation intentionnelle de semblables établissements, de monuments historiques, d'œuvres d'art et de science, est interdite, et doit être poursuivie.

[Section IV.—*Des Belligérants internés et des Blessés soignés chez les Neutres.*

[Art. 57. L'État neutre qui reçoit sur son territoire des troupes appartenant aux armées belligérantes, les internera, autant que possible, loin du théâtre de la guerre.

Il pourra les garder dans des camps, et même les enfermer dans des forteresses ou dans des lieux appropriés à cet effet.

Il décidera si les officiers peuvent être laissés libres en prenant l'engagement sur parole de ne pas quitter le territoire neutre sans autorisation.]

[Art. 58. A défaut de Convention spéciale, l'État neutre fournira aux internés les vivres, les habillements, et les secours commandés par l'humanité.

Bonification sera faite, à la paix, des frais occasionnés par l'internement.]

[Art. 59. L'État neutre pourra autoriser le passage sur son territoire des blessés ou malades appartenant aux armées belligérantes, sous la réserve que les trains qui les aménéront ne transporteront ni personnel ni matériel de guerre. En pareil cas, l'État neutre est tenu de prendre les mesures de sûreté et de contrôle nécessaires à cet effet.

governed by maritime law, depôts of arms and, generally, all kinds of munitions of war, may be seized, even if belonging to private individuals, but shall be restored and indemnities settled when peace has been concluded.

[Art. 54. The plant of railways coming from neutral States, whether the property of those States, or of companies, or of private persons, shall be sent back to them as soon as possible.][1]

Submarine cables joining an occupied territory to a neutral territory shall not be seized or destroyed except in case of absolute necessity. They shall also be restored and indemnities settled on the conclusion of peace.

Art. 55. The occupying State shall only be regarded as administrator and usufructuary of the public buildings, real property, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct.

Art. 56. The property of the districts, that of religious, charitable, and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of, and destruction, or intentional damage done to such institutions, to historical monuments, works of art or science, is prohibited, and should be made the subject of proceedings.

[Section IV.—*On the Internment of Belligerents and the Care of the Wounded in Neutral Countries.*

[Art. 57. A neutral State which receives in its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It can keep them in camps, and even confine them in fortresses or localities assigned for this purpose.

It shall decide whether officers may be left at liberty on giving their parole that they will not leave the neutral territory without authorisation.]

[Art. 58. Failing a special Convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace, the expenses caused by the internment shall be made good.]

[Art. 59. A neutral State may authorise the passage through its territory of wounded or sick belonging to the belligerent armies, on condition that the trains bringing them shall carry neither combatants nor war material. In such a case, the neutral State is bound to adopt such measures of safety and control as may be necessary for the purpose.

[1] Neutral railway property is now dealt with in another Convention. See Art. XIX. of Convention No. V.

Les blessés ou malades amenés dans ces conditions sur le territoire neutre par un des belligérants, et qui appartiendraient à la partie adverse, devront être gardés par l'État neutre, de manière qu'ils ne puissent de nouveau prendre part aux opérations de la guerre. Celui-ci aura les mêmes devoirs quant aux blessés ou malades de l'autre armée qui lui seraient confiés.]

[Art. 60. La Convention de Genève s'applique aux malades et aux blessés internés sur territoire neutre.][1]

Wounded and sick brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral State, so as to insure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care.]

[Art. 60. The Geneva Convention applies to sick and wounded interned in neutral territory.][1]

[1] Transferred to Convention V., Art. XV.

(5) CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS AND PERSONS IN CASE OF WAR ON LAND

(Convention concernant les Droits et les Devoirs des Puissances et des personnes neutres en cas de guerre sur terre)

(*Noms des Hautes Parties Contractantes.*)

En vue de mieux préciser les droits et les devoirs des Puissances neutres en cas de guerre sur terre et de régler la situation des belligérants réfugiés en territoire neutre ;

Désirant également définir la qualité de neutre en attendant qu'il soit possible de régler dans son ensemble la situation des particuliers neutres dans leurs rapports avec les belligérants ;

Ont résolu de conclure une Convention à cet effet et ont, en conséquence, nommé pour Leurs Plénipotentiaires savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes :

Chapitre I.

Des Droits et des Devoirs des Puissances neutres.

ARTICLE I.

Le territoire des Puissances neutres est inviolable.

ARTICLE II.

Il est interdit aux belligérants de faire passer à travers le territoire d'une Puissance neutre des troupes ou des convois, soit de munitions, soit d'approvisionnements.

ARTICLE III.

Il est également interdit aux belligérants :

(*a*) d'installer sur le territoire d'une Puissance neutre une station radio-télégraphique ou tout appareil destiné à servir comme moyen de communication avec des forces belligérantes sur terre ou sur mer ;

(*b*) d'utiliser toute installation de ce genre établie par eux avant la guerre sur le territoire de la Puissance neutre dans un but exclusivement militaire, et qui n'a pas été ouverte au service de la correspondance publique.

(*Names of High Contracting Powers.*)

In view of defining more precisely the rights and duties of neutral States in case of war on land, and of regulating the situation of refugee belligerents on neutral territory ;

Wishing also to define the condition of neutrality until it is possible to regulate, as a whole, the situation of neutral individuals in their relations with belligerents ;

Have resolved to come to an agreement to this effect and have in consequence named as their plenipotentiaries the following :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and due form, have agreed on the following provisions :

Chapter I.

Rights and Duties of Neutral Powers.

ARTICLE I.

Neutral Territory is inviolable.

ARTICLE II.

Belligerents are forbidden to send troops or convoys, either of munitions of war or of provisions, through the territory of a neutral State.

ARTICLE III.

Belligerents are also forbidden :

(*a*) To instal, on the territory of a neutral State, a radio-telegraphic station or any apparatus intended to serve as a means of communication with the belligerent forces on land or sea ;

(*b*) To make use of any installation of like nature, erected by them before the war on the territory of the neutral State, for an exclusively military purpose, and which has not been opened to the service of public correspondence.

ARTICLE IV.

Des corps de combattants ne peuvent être formés, ni des bureaux d'enrôlement ouverts, sur le territoire d'une Puissance neutre au profit des belligérants.

ARTICLE V.

Une Puissance neutre ne doit tolérer sur son territoire aucun des actes visés par les Articles II. à IV.

Elle n'est tenue de punir des actes contraires à la neutralité que si ces actes ont été commis sur son propre territoire.

ARTICLE VI.

La responsabilité d'une Puissance neutre n'est pas engagée par le fait que des individus passent isolément la frontière pour se mettre au service de l'un des belligérants.

ARTICLE VII.

Une Puissance neutre n'est pas tenue d'empêcher l'exportation ou le transit, pour le compte de l'un ou de l'autre des belligérants, d'armes, de munitions, et, en général, de tout se qui peut être utile à une armée ou à une flotte.

ARTICLE VIII.

Une Puissance neutre n'est pas tenue d'interdire ou de restreindre l'usage, pour les belligérants, des câbles télégraphiques ou téléphoniques, ainsi que des appareils de télégraphie sans fil, qui sont, soit sa propriété, soit celle de compagnies ou de particuliers.

ARTICLE IX.

Toutes mesures restrictives ou prohibitives prises par une Puissance neutre à l'égard des matières visées par les Articles VII. et VIII. devront être uniformément appliquées par elle aux belligérants.

La Puissance neutre veillera au respect de la même obligation par les compagnies ou particuliers propriétaires de câbles télégraphiques ou téléphoniques ou d'appareils de télégraphie sans fil.

ARTICLE X.

Ne peut être considéré comme un acte hostile le fait, par une Puissance neutre, de repousser, même par la force, les atteintes à sa neutralité.

ARTICLE IV.

Bodies of combatants shall not be formed or recruiting offices opened on territory of a neutral Power for the benefit of the belligerents.

ARTICLE V.

A neutral State shall not allow on its territory any of the acts mentioned in Articles II. to IV. It is only bound to repress acts contrary to neutrality in case they have been committed on its own territory.

ARTICLE VI.

A neutral State is not responsible where individuals separately pass the frontier to place themselves at the disposal of either belligerent.

ARTICLE VII.

A neutral State is not bound to prevent exportation or transit for the account of either belligerent, of arms, munitions of war, and, in general, of anything which may be useful for an army or a fleet.

ARTICLE VIII.

A neutral State is not bound to prohibit or restrict the use, for belligerents, of telegraphic or telephonic cables, or of wireless telegraphy apparatus, which are its property, or that of companies or private individuals.

ARTICLE IX.

Any prohibitive or restrictive measures adopted by a neutral State relative to the matters mentioned in Articles VII. and VIII. shall be applied uniformly by it to both belligerents. The neutral State shall see that this obligation is observed by companies or private individuals owning telegraphic or telephonic cables or wireless telegraphic apparatus.

ARTICLE X.

The act, by a neutral State, of resisting any violation of its neutrality, even by force of arms, cannot be regarded as an act of hostility.

Chapitre II.

Des belligérants internés et des blessés soignés chez les neutres.

ARTICLE XI.

La Puissance neutre qui reçoit sur son territoire des troupes appartenant aux armées belligérantes, les internera, autant que possible, loin du théâtre de la guerre.

Elle pourra les garder dans des camps, et même les enfermer dans des forteresses ou dans des lieux appropriés à cet effet.

Elle décidera si les officiers peuvent être laissés libres en prenant l'engagement sur parole de ne pas quitter le territoire neutre sans autorisation.

ARTICLE XII.

A défaut de convention spéciale, la Puissance neutre fournira aux internés les vivres, les habillements et les secours commandés par l'humanité.

Bonification sera faite, à la paix, des frais occasionnés par l'internement.

ARTICLE XIII.

La Puissance neutre qui reçoit des prisonniers de guerre évadés les laissera en liberté. Si elle tolère leur séjour sur son territoire, elle peut leur assigner une résidence.

La même disposition est applicable aux prisonniers de guerre amenés par des troupes se réfugiant sur le territoire de la Puissance neutre.

ARTICLE XIV.

Une Puissance neutre pourra autoriser le passage sur son territoire des blessés ou malades appartenant aux armées belligérantes, sous la réserve que les trains qui les amèneront ne transporteront ni personnel, ni matériel de guerre. En pareil cas, la Puissance neutre est tenue de prendre les mesures de sûreté et de contrôle nécessaires à cet effet.

Les blessés ou malades amenés dans ces conditions sur le territoire neutre par un des belligérants, et qui appartiendraient à la partie adverse, devront être gardés par la Puissance neutre de manière qu'ils ne puissent de nouveau prendre part aux opérations de la guerre. Cette Puissance aura les mêmes devoirs quant aux blessés ou malades de l'autre armée[1] qui lui seraient confiés.

ARTICLE XV.

La Convention de Genève s'applique aux malades et aux blessés internés sur territoire neutre.

Chapter II.

Belligerents Interned and Wounded on Neutral Territory.

ARTICLE XI.

A neutral State receiving, on its territory, troops belonging to the belligerent armies, shall, as far as possible, keep them distant from the area of hostilities.

It may keep them in camps, and even shut them up in fortified places, or in places suitable for this purpose. It shall decide whether officers may be left at liberty on parole not to leave the neutral territory without authorisation.

ARTICLE XII.

Where there is no special Convention a neutral State shall supply interned prisoners with food, clothing, and the aid which humanity calls for. When peace is established, the cost of keeping the prisoners shall be reimbursed.

ARTICLE XIII.

A neutral State receiving escaped prisoners of war shall leave them at liberty. If it allows them to stay on its territory, it may appoint a place of residence for them. The same rule is applicable to prisoners of war brought by troops taking refuge on neutral territory.

ARTICLE XIV.

A neutral State may authorise the passage on its territory of wounded or sick belonging to the belligerent armies, on condition that the trains which carry them shall transport none of the fighting force and no materials of war. In such a case, the neutral State is bound to take the necessary steps to ensure safety and control.

The wounded or sick, brought in these circumstances into neutral territory by one of the belligerents, and belonging to the enemy, shall be detained by the neutral State in such a way that they cannot again take part in the hostilities. This neutral State shall discharge the same duties if it be entrusted with the wounded or sick of the other army.[1]

ARTICLE XV.

The Geneva Convention applies to sick and wounded interned on neutral territory.

[1] The draftsman probably meant "belligerent." The sentence is anyhow tautological.

Chapitre III.

Des Personnes Neutres.

ARTICLE XVI.

Sont considérés comme neutres les nationaux d'un État qui ne prend pas part à la guerre.

ARTICLE XVII.

Un neutre ne peut pas se prévaloir de sa neutralité :

(*a*) s'il commet des actes hostiles contre un belligérant ;

(*b*) s'il commet des actes en faveur d'un belligérant, notamment s'il prend volontairement du service dans les rangs de la force armée de l'une des Parties.

En pareil cas, le neutre ne sera pas traité plus rigoureusement par le belligérant contre lequel il s'est départi de la neutralité que ne pourrait l'être, à raison du même fait, un national de l'autre État belligérant.

ARTICLE XVIII.

Ne seront pas considérés comme actes commis en faveur d'un des belligérants, dans le sens de l'Article XVII., lettre *b* :

(*a*) les fournitures faites ou les emprunts consentis à l'un des belligérants, pourvu que le fournisseur ou le prêteur n'habite ni le territoire de l'autre Partie, ni le territoire occupé par elle, et que les fournitures ne proviennent pas de ces territoires ;

(*b*) les services rendus en matière de police ou d'administration civile.

Chapitre IV.

Du Matériel des Chemins de fer.

ARTICLE XIX.

Le matériel des chemins de fer provenant du territoire de Puissances neutres, qu'il appartienne à ces Puissances ou à des sociétés ou personnes privées, et reconnaissable comme tel, ne pourra être réquisitionné et utilisé par un belligérant que dans le cas et la mesure où l'exige une impérieuse nécessité. Il sera renvoyé aussitôt que possible dans le pays d'origine.

La Puissance neutre pourra de même, en cas de nécessité, retenir et utiliser, jusqu'à due concurrence, le matériel provenant du territoire de la Puissance belligérante.

Une indemnité sera payée de part et d'autre, en proportion du matériel utilisé et de la durée de l'utilisation.

Chapter III.

Neutral Persons.

ARTICLE XVI.

The natives of a State not taking part in the hostilities are considered as neutrals.

ARTICLE XVII.

A neutral person cannot take advantage of his neutrality :

(*a*) If he commits hostile acts against a belligerent ;

(*b*) If he commits acts in favour of a belligerent ; for instance, if he voluntarily takes service in the ranks of the army of one of the parties.

In such a case the neutral shall not be treated with more severity by the belligerent against whom he has acted in contravention of his neutrality than a native of the other belligerent State would be for the same act.

ARTICLE XVIII.

The following shall not be considered as acts committed in favour of one of the belligerents, in the sense of Article XVII. (*b*) :

(*a*) Supplies or loans made to one of the belligerents, provided the purveyor or the lender inhabits neither the territory of the other party nor territory occupied by it, and provided the supplies do not come from these territories ;

(*b*) Services rendered in matters of police or civil administration.

Chapter IV.

Railway Property.

ARTICLE XIX.

Railway property coming from the territory of neutral States, whether it belongs to these States or to companies or to private persons, and distinguishable as such, cannot be requisitioned or utilised by a belligerent, except in such cases and in such a manner as dictated by absolute necessity. Such property shall be returned to its country of origin as soon as possible.

Similarly the neutral State can, in case of necessity, keep and utilise to an equal extent property coming from the territory of a belligerent State.

An indemnity shall be paid, proportionate to the amount of the property utilised and the duration of utilisation.

Chapitre V.

Dispositions Finales.

ARTICLE XX.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE XXI.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'aliné à précédent ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE XXII.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE XXIII.

La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour le Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

Chapter V.

Final Provisions.

ARTICLE XX.

The provisions of the present Convention are only applicable as among the Contracting Powers, and provided the belligerents are all parties to the Convention.

ARTICLE XXI.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein and by the Netherland Minister of Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and through the diplomatic channel to the Powers convened to the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE XXII.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the acts of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE XXIII.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE XXIV.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances, en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XXV.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt des ratifications effectué en vertu de l'Article XXI., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article XXII., alinéa 2) ou de dénonciation (Article XXIV., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

ARTICLE XXIV.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it one year from the date on which the Netherland Government shall have received it.

ARTICLE XXV.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Art. XXI., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Art. XXII., § 2) or of denunciation (Art. XXIV., § 1).

Each Contracting Power shall have the right to examine this register, and to claim certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channels to the Powers who have been convened to the Second Peace Conference.

(6) CONVENTION RELATING TO THE TREATMENT OF ENEMY MERCHANT SHIPS AT THE COMMENCEMENT OF HOSTILITIES

(Convention relative au régime des navires de commerce ennemis au début des hostilités)

(*Noms des Hautes Parties Contractantes.*)

Désireux de garantir la sécurité du commerce international contre les surprises de la guerre et voulant, conformément à la pratique moderne, protéger autant que possible les opérations engagées de bonne foi et en cours d'exécution avant le début des hostilités ;

Ont résolu de conclure une Convention à cet effet et ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Lorsqu'un navire de commerce relevant d'une des Puissances belligérantes se trouve, au début des hostilités, dans un port ennemi, il est désirable qu'il lui soit permis de sortir librement, immédiatement, ou après un délai de faveur suffisant, et de gagner directement, après avoir été muni d'un laissez-passer, son port de destination ou tel autre port qui lui sera désigné.

Il en est de même du navire ayant quitté son dernier port de départ avant le commencement de la guerre et entrant dans un port ennemi sans connaître les hostilités.

ARTICLE II.

Le navire de commerce qui, par suite de circonstances de force majeure, n'aurait pu quitter le port ennemi pendant le délai visé à l'article précédent, ou auquel la sortie n'aurait pas été accordée, ne peut être confisqué.

Le belligérant peut seulement le saisir moyennant l'obligation de le restituer après la guerre sans indemnité, ou le réquisitionner moyennant indemnité.

ARTICLE III.

Les navires de commerce ennemis, qui ont quitté leur dernier port de départ avant le commencement de la guerre et qui sont rencontrés en mer ignorants des hostilités, ne peuvent être confisqués. Ils sont seulement sujets à être saisis, moyen-

(*Names of High Contracting Parties.*)

Desiring to guarantee the security of international commerce against the surprises of war, and wishing, in accordance with modern practice, to protect, as far as possible, operations entered into in good faith and in course of execution before the opening of hostilities ;

Have resolved to conclude a Convention for this purpose, and have appointed as their Plenipotentiaries :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and due form, have agreed on the following provisions :

ARTICLE I.

When a merchant ship belonging to one of the belligerent Powers happens to be in an enemy port at the beginning of hostilities, it is desirable that such vessel be allowed to leave the port freely, either immediately, or after a reasonable [1] delay of grace, and, having been provided with a *laissez-passer*, to directly reach its port of destination or any other port which may be assigned to it.

The same shall apply to a vessel which shall have left its last port of call before the beginning of war and have entered an enemy port unaware of the existence of hostilities.

ARTICLE II.

Any merchant ship which, owing to *vis major* may have been prevented from leaving the enemy port within the time referred to in the preceding article, or which may not have been allowed to leave the port, cannot be confiscated.

The belligerent may only keep it on condition of returning it after the war without indemnity, or requisitioning it and paying an indemnity.

ARTICLE III.

Enemy merchant ships which have left their last port of call before the beginning of hostilities, and which when met on the high seas are unaware of the existence of hostilities, cannot be confiscated. They are only subject to seizure provided they are restored after the war without indemnity, or to be

[1] The English equivalent of *suffisant* is *reasonable*. The official translation is "sufficient."

nant l'obligation de les restituer après la guerre sans indemnité, ou à être réquisitionnés, ou même à être détruits, à charge d'indemnité et sous l'obligation de pourvoir à la sécurité des personnes ainsi qu'à la conservation des papiers de bord.

Après avoir touché à un port de leur pays ou à un port neutre, ces navires sont soumis aux lois et coutumes de la guerre maritime.

ARTICLE IV.

Les marchandises ennemies se trouvant à bord des navires visés aux Articles I. et II. sont également sujettes à être saisies et restituées après la guerre sans indemnité, ou à être réquisitionnées moyennant indemnité, conjointement avec le navire ou séparément.

Il en est de même des marchandises se trouvant à bord des navires à l'Article III.

ARTICLE V.

La présente Convention ne vise pas les navires de commerce dont la construction indique qu'ils sont destinés à être transformés en bâtiments de guerre.

ARTICLE VI.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE VII.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratifications, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE VIII.

Les Puissances non signataires sont admises adhérer à la présente Convention.

requisitioned, or even destroyed, provided an indemnity be paid, and on condition that provision be made for the security of the persons and the preservation of the ship's papers.

After having entered a port of their own country or a neutral port, these vessels are subject to the laws and customs of maritime warfare.

ARTICLE IV.

Enemy goods on board the vessels referred to in Articles I. and II. are also subject to be seized and restored after the war without indemnity, or to be requisitioned with indemnity, in conjunction with or apart from the vessel.

The same shall apply to goods on board the vessels referred to in Article III.

ARTICLE V.

The present Convention does not apply to merchant ships whose build indicates that they are intended to be transformed into war vessels.

ARTICLE VI.

The provisions of the present Convention are only applicable as among the Contracting Powers, and provided the belligerents are all parties to the Convention.

ARTICLE VII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be lodged at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein, and by the Netherland Minister for Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and by the diplomatic channel to the Powers convened to the Second Peace Conference as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE VIII.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE IX.

La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE X.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XI.

Un registre tenue par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article VII., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article VIII., alinéa 2) ou de dénonciation (Article X., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de léurs signatures.

Fait à La Haye, le 18 octobre 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the act of adhesion which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE IX.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE X.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it, and one year from the date on which the Netherland Government shall have received it.

ARTICLE XI.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Art. VII., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Art. VIII., § 2) or of denunciation (Art. X., § 1).

Each Contracting Power shall have the right to examine this register and to claim certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channel to the Powers who have been convened to the Second Peace Conference.

(7) CONVENTION RELATING TO THE CONVERSION OF MERCHANT SHIPS INTO VESSELS OF WAR

(Convention relative à la transformation des navires de commerce en bâtiments de guerre)

(*Noms des Hautes Parties Contractantes.*)

Considérant qu'en vue de l'incorporation en temps de guerre de navires de la marine marchande dans les flottes de combat, il est désirable de définir les conditions dans lesquelles cette opération pourra être effectuée ;

Que, toutefois, les Puissances contractantes n'ayant pu se mettre d'accord sur la question de savoir si la transformation d'un navire de commerce en bâtiment de guerre peut avoir lieu en pleine mer, il est entendu que la question du lieu de transformation reste hors de cause et n'est nullement visée par les règles ci-dessous ;

Désirant conclure une Convention à cet effet, ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Aucun navire de commerce transformé en bâtiment de guerre ne peut avoir les droits et les obligations attachés à cette qualité, s'il n'est placé sous l'autorité directe, le contrôle immédiat et la responsabilité de la Puissance dont il porte le pavillon.

ARTICLE II.

Les navires de commerce transformés en bâtiments de guerre doivent porter les signes extérieurs distinctifs des bâtiments de guerre de leur nationalité.

ARTICLE III.

Le commandant doit être au service de l'État et dûment commissionné par les autorités compétentes. Son nom doit figurer sur la liste des officiers de la flotte militaire.

(*Names of the High Contracting Parties.*)

Considering that in view of the incorporation,[1] in time of war, of merchant vessels in combatant fleets, it is desirable to define the conditions under which this can be effected ;

That, nevertheless, the Contracting Powers not having been able to come to an agreement on the question whether the transformation of a merchant ship into a war vessel may take place on the high sea, it is agreed that the question of the place of transformation is not a matter dealt with, and is in no way affected by the understated rules ;

Desiring to conclude a Convention for this purpose, have appointed as their Plenipotentiaries :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and due form, have agreed as follows :

ARTICLE I.

No merchant ship transformed into a war vessel can have the rights and obligations attaching to this condition unless it is placed under the direct authority, the immediate control, and the responsibility of the Power whose flag it carries.

ARTICLE II.

Merchant ships transformed into war vessels must bear the distinctive external signs of war vessels of their nationality.

ARTICLE III.

The officer commanding must be in the service of the State, and properly commissioned by the competent authorities. His name must appear in the list of officers of the combatant fleet.

[1] This means "*possible* incorporation."

ARTICLE IV.

L'équipage doit être soumis aux règles de la discipline militaire.

ARTICLE V.

Tout navire de commerce transformé en bâtiment de guerre est tenu d'observer dans ses opérations, les lois et coutumes de la guerre.

ARTICLE VI.

Le belligérant, qui transforme un navire de commerce en bâtiment de guerre, doit, le plus tôt possible, mentionner cette transformation sur la liste des bâtiments de sa flotte militaire.

ARTICLE VII.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE VIII.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bas, et par voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE IX.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

ARTICLE IV.

The crew must be subject to the rules of military discipline.

ARTICLE V.

Every merchant ship transformed into a war vessel is bound to conform, in its operations, to the laws and customs of war.

ARTICLE VI.

The belligerent who transforms a merchant ship into a war vessel must, as soon as possible, mention this transformation on the list of vessels belonging to its combatant fleet.

ARTICLE VII.

The provisions of the present Convention are only applicable as among the Contracting Powers and provided the belligerents are all parties to the Convention.

ARTICLE VIII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein, and by the Netherland Minister for Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and by the diplomatic channel to the Powers convened to the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE IX.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the act of adhesion, which shall be deposited in the archives of the said Government.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE X.

La présente Convention produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt, et pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE XI.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article VIII., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article IX., alinéa 2) ou de dénonciation (Article XI., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas, et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE X.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE XI.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it, one year from the date on which the Netherland Government shall have received it.

ARTICLE XII.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Article VIII., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article IX., § 2) or of denunciation (Article XI., § 1).

Each Contracting Power shall have the right to examine this register, and to claim certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channel to the Powers who have been convened to the Second Peace Conference.

(8) CONVENTION RELATING TO THE EMPLOYMENT OF SUBMARINE MINES ACTING AUTOMATICALLY BY CONTACT

(Convention relative à la pose de mines sous-marines automatiques de contact)

(*Noms des Hautes Parties Contractantes.*)

S'inspirant du principe de la liberté des voies maritimes, ouvertes à toutes les nations ;

Considérant que, si dans l'état actuel des choses, on ne peut interdire l'emploi de mines sous-marines automatiques de contact, il importe d'en limiter et réglementer l'usage, afin de restreindre les rigueurs de la guerre et de donner, autant que faire se peut à la navigation pacifique la sécurité à laquelle elle a droit de prétendre, malgré l'existence d'une guerre ;

En attendant qu'il soit possible de régler la matière d'une façon qui donne aux intérêts engagés toutes les garanties désirables ;

Ont résolu de conclure une Convention à cet effet et ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Il est interdit :

1°. De placer des mines automatiques de contact non amarrées, à moins qu'elles ne soient construites de manière à devenir inoffensives une heure au maximum aprés que celui qui les a placées en aura perdu le contrôle ;

2°. De placer des mines automatiques de contact amarrées, qui ne deviennent pas inoffensives dès qu'elles auront rompu leurs amarres ;

3°. D'employer des torpilles, qui ne deviennent pas inoffensives lorsqu'elles auront manqué leur but.

ARTICLE II.

Il est interdit de placer des mines automatiques de contact devant les côtes et les ports de l'adversaire, dans le seul but d'intercepter la navigation de commerce.

(*Names of the High Contracting Parties.*)

Having regard to the principle of the freedom of sea routes, open to all nations ;

Considering that, if in the present state of things the use of submarine mines with automatic contact cannot be forbidden, it is important to limit and regulate their use, in order to restrict the rigours of war and to give, as far as possible, to peaceful navigation the security it has the right to claim, in spite of the existence of a war ;

Pending the possibility of settling the matter in a way affording the interests involved every desirable guarantee ;

Have resolved to conclude a Convention to this effect, and have appointed as their Plenipotentiaries :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and due form, have agreed as follows :

ARTICLE I.

It is forbidden :

1. To place automatic mines of contact, not moored, unless they are so constructed as to become harmless one hour at most after those who have placed them have lost control over them ;
2. To place automatic mines of contact which are moored, if they do not become harmless when they have broken from their moorings ;
3. To employ torpedoes which do not become harmless when they have missed their object.

ARTICLE II.

It is forbidden to place automatic contact mines along the enemy coast or ports, with the sole object of intercepting commercial navigation.

ARTICLE III.

Lorsque les mines automatiques de contact amarrées sont employées, toutes les précautions possibles doivent être prises pour la sécurité de la navigation pacifique.

Les belligérants s'engagent à pourvoir, dans la mesure du possible, à ce que ces mines deviennent inoffensives après un laps de temps limité, et, dans le cas où elles cesseraient d'être surveillées, à signaler les régions dangereuses, aussitôt que les exigences militaires le permettront, par un avis à la navigation, qui devra être aussi communiqué aux Gouvernements par la voie diplomatique.

ARTICLE IV.

Toute Puissance neutre qui place des mines automatiques de contact devant ses côtes, doit observer les mêmes règles et prendre les mêmes précautions que celles qui sont imposées aux belligérants.

La Puissance neutre doit faire connaître à la navigation, par un avis préalable, les régions où seront mouillées des mines automatiques de contact. Cet avis devra être communiqué d'urgence aux Gouvernements par voie diplomatique.

ARTICLE V.

A la fin de la guerre, les Puissances contractantes s'engagent à faire tout ce qui dépend d'elles pour enlever chacune de son côté, les mines qu'elles ont placées.

Quant aux mines automatiques de contact amarrées, que l'un des belligérants aurait posées le long des côtes de l'autre, l'emplacement en sera notifié à l'autre partie par la Puissance qui les a posées et chaque Puissance devra procéder dans le plus bref délai à l'enlèvement des mines qui se trouvent dans ses eaux.

ARTICLE VI.

Les Puissances contractantes, qui ne disposent pas encore de mines perfectionnées telles qu'elles sont prévues dans la présente Convention, et qui, par conséquent, ne sauraient actuellement se conformer aux règles établies dans les Articles I. et III., s'engagent à transformer, aussitôt que possible, leur matériel de mines, afin qu'il réponde aux prescriptions susmentionnées.

ARTICLE VII.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE III.

When moored automatic contact mines are used, all possible precautions should be taken for the security of peaceful navigation.

Belligerents undertake to arrange, as far as possible, that these mines shall become harmless after a limited lapse of time, and, when they cease to be guarded, to notify the dangerous regions, as soon as military exigencies permit, by a notice to navigation, which should also be communicated to the Governments through the diplomatic channel.

ARTICLE IV.

Every neutral Power placing automatic contact mines along its coasts must observe the same rules and take the same precautions as those imposed on belligerents.

A neutral Power must notify navigation, by previous notice, of the places where automatic contact mines are moored. This communication should be made without delay to the Governments through the diplomatic channel.

ARTICLE V.

At the termination of the war, the Contracting Powers undertake to do everything in their power, each on its own side, to remove the mines which they have placed.

With respect to moored automatic contact mines which either of the belligerents may have placed along the coast of the other, the spots where they have been placed shall be notified by the Power which has placed them to the other Power, and each Power must proceed as soon as possible to remove the mines in its waters.

ARTICLE VI.

Contracting Powers which have not yet at their disposal improved mines such as provided for in this Convention, and who consequently cannot at present comply with the rules laid down in Articles I. and III., undertake to alter their stock of mines as soon as possible, in order to comply with the above-mentioned rules.

ARTICLE VII.

The provisions of the present Convention are only applicable as among the Contracting Powers, and provided the belligerents are all parties to the Convention.

ARTICLE VIII.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Gouvernement des Pays-Bays et par la voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE IX.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE X.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt, et pour les Puissances qui ratifieront ultérieurement ou qui adhèreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE XI.

La présente Convention aura une durée de sept ans à partir du soixantième jour après la date du premier dépôt de ratifications.

Sauf dénonciation, elle continuera d'être en vigueur après l'expiration de ce délai.

ARTICLE VIII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be lodged at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein, and by the Netherland Minister of Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government, and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and through the diplomatic channel to the Powers convened to the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE IX.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the acts of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification, and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE X.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE XI.

The present Convention shall remain in force for seven years from the sixtieth day after the date of the first deposit of ratifications.

Unless denounced, it shall remain in force after the expiration of that period.

La dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les Puissances, en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et six mois après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XII.

Les Puissances contractantes s'engagent à reprendre la question de l'emploi des mines automatiques de contact six mois avant l'expiration du terme prévu par l'alinéa premier de l'article précédent, au cas où elle n'aurait pas été reprise et résolue à une date antérieure par la troisième Conférence de la Paix.

Si les Puissances contractantes concluent une nouvelle Convention relative à l'emploi des mines, dès son entrée en vigueur, la présente Convention cessera d'être applicable.

ARTICLE XIII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article VIII., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article IX., alinéa 2) ou de dénonciation (Article XI., alinéa 3).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le 18 octobre 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

The denunciation shall be notified in writing to the Netherland Government, who shall immediately communicate a certified copy of the Convention to all the Powers, informing them of the date when it was received. The denunciation shall only be effective as regards the Power which has notified it, and six months after the notification shall have been declared to the Netherland Government.

ARTICLE XII.

The Contracting Powers undertake to resume the question of using automatic contact mines six months before expiry of the period fixed in the first paragraph of the preceding article, unless it shall already have been resumed at an earlier date by the Third Peace Conference.

If the Contracting Powers conclude a new Convention relating to the use of mines, the present Convention shall cease to be applicable from the time when such new Convention shall come into force.

ARTICLE XIII.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Article VIII., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article IX., § 2) or of denunciation (Article XI., § 3).

Each Contracting Power shall have the right to examine this register, and to claim certified extracts therefrom.

In faith of which the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channels to the Powers who have been convened to the Second Peace Conference.

(9) CONVENTION CONCERNING BOMBARDMENT BY NAVAL FORCES IN TIME OF WAR

(Convention concernant le bombardement par des forces navales en temps de guerre)

(*Noms des Hautes Puissances Contractantes.*)

Animés du désir de réaliser le vœu exprimé par la Première Conférence de la Paix, concernant le bombardement, par des forces navales, de ports, villes et villages, non défendus ;

Considérant qu'il importe de soumettre les bombardements par des forces navales à des dispositions générales qui garantissent les droits des habitants et assurent la conservation des principaux édifices, en étendant à cette opération de guerre, dans la mesure du possible, les principes du Règlement de 1899 sur les lois et coutumes de la guerre sur terre ;

S'inspirant ainsi du désir de servir les intérêts de l'humanité et de diminuer les rigueurs et les désastres de la guerre ;

Ont résolu de conclure une Convention à cet effet et ont, en conséquence, nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

CHAPITRE I.

Du Bombardement des Ports, Villes, Villages, Habitations ou Bâtiments non Défendus.

ARTICLE I.

Il est interdit de bombarder, par des forces navales, des ports, villes, villages, habitations ou bâtiments, qui ne sont pas défendus.

Une localité ne peut pas être bombardée à raison du seul fait que, devant son port, se trouvent mouillées des mines sous-marines automatiques de contact.

ARTICLE II.

Toutefois, ne sont pas compris dans cette interdiction les ouvrages militaires, établissements militaires ou navals, dépôts d'armes ou de matériel de guerre, ateliers et installation

(*Names of the High Contracting Parties.*)

Animated by the desire to realise the *vœu* expressed by the First Peace Conference concerning the bombardment by naval forces of undefended ports, towns, and villages ;

Considering that it is of importance to subject bombardments by naval forces to general provisions guaranteeing the rights of the inhabitants and ensuring the preservation of the principal buildings, by extending to this operation of war, as far as possible, the principles of the regulations of 1899 with respect to the laws and customs of war on land ;

Thus inspired by the desire to serve the interest of humanity and to lessen the rigours and disasters of war ;

Have resolved to enter into a Convention for this purpose, and have in consequence appointed as their Plenipotentiaries :

(*Names and Description of Plenipotentiaries.*)

Who, having deposited their full powers, found to be in good and due form, have agreed as follows :

CHAPTER I.

Bombardment of Undefended Ports, Towns, Villages, Habitations or Buildings.

ARTICLE I.

It is forbidden to bombard by naval forces undefended ports, towns, villages, habitations or buildings.

A place may not be bombarded for the sole reason that submarine automatic contact mines are moored in front of its port.

ARTICLE II.

Nevertheless, this interdiction does not comprise military works, military or naval establishments, depôts of arms or war material, workshops or installa-

propres à être utilisés pour les besoins de la flotte ou de l'armée ennemie, et les navires de guerre se trouvant dans le port. Le commandant d'une force navale pourra, après sommation avec délai raisonnable, les détruire par le canon, si tout autre moyen est impossible et lorsque les autorités locales n'auront pas procédé à cette destruction dans le délai fixé.

Il n'encourt aucune responsabilité dans ce cas pour les dommages involontaires, qui pourraient être occasionnés par le bombardement.

Si des nécessités militaires, exigeant une action immédiate, ne permettaient pas d'accorder de délai, il reste entendu que l'interdiction de bombarder la ville non défendue subsiste comme dans le cas énoncé dans l'alinéa 1er et que le commandant prendra toutes les dispositions voulues pour qu'il en résulte pour cette ville le moins d'inconvénients possible.

ARTICLE III.

Il peut, après notification expresse, être procédé au bombardement des ports, villes, villages, habitations ou bâtiments non défendus, si les autorités locales, mises en demeure par une sommation formelle, refusent d'obtempérer à des réquisitions de vivres ou d'approvisionnements nécessaires au besoin présent de la force navale qui se trouve devant la localité.

Ces réquisitions seront en rapport avec les ressources de la localité. Elles ne seront réclamées qu'avec l'autorisation du commandant de ladite force navale et elles seront, autant que possible, payées au comptant ; sinon elles seront constatées par des reçus.

ARTICLE IV.

Est interdit le bombardement, pour le non paiement des contributions en argent, des ports, villes, villages, habitations ou bâtiments, non défendus.

Chapitre II.

Dispositions Générales.

ARTICLE V.

Dans le bombardement par des forces navales, toutes les mesures nécessaires doivent être prises par le commandant pour épargner, autant que possible, les édifices consacrés aux cultes, aux arts, aux sciences et à la bienfaisance, les monuments historiques, les hôpitaux et les lieux de rassemblement de malades ou de blessés, à condition qu'ils ne soient pas employées en même temps à un but militaire.

Le devoir des habitants est de désigner ces monuments, ces

tions suitable to be used for the requirements of the enemy's army or fleet, and war vessels in the port. The commander of a naval force may, after summons with a reasonable delay, destroy them by cannon if no other means are possible, and when the local authorities shall not have proceeded to their destruction within the delay fixed.

In this case he incurs no responsibility for involuntary damage which may be occasioned by the bombardment.

If military necessity, requiring immediate action, does not admit of any delay, it remains understood that the interdiction to bombard an undefended town continues as in the case set out in § 1, and that the commander will take all the desired precautions to occasion the least inconvenience possible to the town.

ARTICLE III.

After express notice, bombardment of undefended ports, towns, villages, habitations or buildings may be proceeded with if the local authorities, having received formal notice, refuse to comply with requisitions for food or supplies required for the immediate wants of the naval force facing the place.

These requisitions must be in proportion to the resources of the place. They shall not be demanded without the authority of the commander of the said naval force, and shall, as far as possible, be paid for in cash ; if not, they shall be acknowledged by receipts.

ARTICLE IV.

The bombardment of undefended ports, towns, villages, habitations or buildings for non-payment of money contributions is forbidden.

Chapter II.

General Dispositions.

ARTICLE V.

In a bombardment by naval forces, all necessary steps should be taken by the commander to spare, as far as possible, buildings devoted to worship, art, science, and charity, historic monuments, hospitals and places for the reception of sick or wounded, provided they are not at the same time used for military purposes.

It is the duty of the inhabitants to indicate these monuments, buildings, or

édifices ou lieux de rassemblement, par des signes visibles, qui consisteront en grands panneaux rectangulaires rigides, partagés, suivant une des diagonales, en deux triangles de couleur, noire en haut et blanche en bas.

ARTICLE VI.

Sauf le cas où les exigences militaires ne le permettraient pas, le commandant de la force navale assaillante doit, avant d'entreprende le bombardement, faire tout ce qui dépend de lui pour avertir les autorités.

ARTICLE VII.

Il est interdit de livrer au pillage une ville ou localité même prise d'assaut.

CHAPITRE III.

Dispositions Finales.

ARTICLE VIII.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE IX.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise, par les soins du Governement des Pays-Bas et par la voie diplomatique, aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE X.

Les Puissances non signataires sont admises à adhérer à a présente Convention.

places by distinctive signs, which shall consist of large rectangular rigid screens, divided at one of the diagonals into two triangles, black above and white below.

ARTICLE VI.

Unless military exigencies prevent it, the commander of the attacking naval force should before commencing the bombardment do everything in his power to warn the authorities.

ARTICLE VII.

It is forbidden to give over a town or locality to pillage, even if taken by assault.

CHAPTER III.

Final Provisions.

ARTICLE VIII.

The provisions of the present Convention are only applicable as among the Contracting Powers, and provided the belligerents are all parties to the Convention.

ARTICLE IX.

The present Convention shall be ratified as soon as possible.

The ratifications shall be lodged at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein, and by the Netherland Minister for Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government, and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and by the diplomatic channel to the Powers convened to the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE X.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE XI.

La présente Convention produira effet pour, les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE XII.

S'il arrivait qu'une des Puissances Contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XIII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article IX., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article X., alinéa 2) ou de dénonciation (Article XII., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le 18 Octobre 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE XI.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE XII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it, one year from the date on which the Netherland Government shall have received it.

ARTICLE XIII.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Article IX., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article X., § 2) or of denunciation (Article XII., § 1).

Each Contracting Power shall have the right to examine this register, and to claim certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channel to the Powers who have been convened to the Second Peace Conference.

(10) CONVENTION FOR THE ADAPTATION TO MARITIME WARFARE OF THE PRINCIPLES OF THE GENEVA CONVENTION

(Convention pour l'adaptation à la guerre maritime des principes de la Convention de Genève)

(*Noms des Hautes Parties Contractantes.*)

Également animés du désir de diminuer autant qu'il dépend d'eux les maux inséparables de la guerre ; et voulant dans ce but adapter à la guerre maritime les principes de la Convention de Genève du [22 Août 1864] 6 *Juillet* 1906 ; ont résolu de conclure une Convention à l'effet *de reviser la Convention du* 29 *Juillet* 1899 *relative à la même matière et ont*

[Ils ont en conséquence] nommé pour leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après [s'être communiqué] avoir *déposé* leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Les bâtiments-hôpitaux militaires, c'est-à-dire les bâtiments construits ou aménagés par les États spécialement et uniquement en vue de porter secours aux blessés, malades, et naufragés, et dont les noms auront été communiqués, à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage, aux Puissances belligérantes, sont respectés et ne peuvent être capturés pendant la durée des hostilités.

Ces bâtiments ne sont pas non plus assimilés aux navires de guerre au point de vue de leur séjour dans un port neutre.

ARTICLE II.

Les bâtiments-hospitaliers, équipés en totalité ou en partie aux frais des particuliers ou des Sociétés de Secours officiellement reconnues, sont également respectés et exempts de capture, si la Puissance belligérante dont ils dépendent, leur a donné une commission officielle et en a notifié les noms à la Puissance adverse à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage.

Ces navires doivent être porteurs d'un document de l'autorité compétente déclarant qu'ils ont été soumis à son contrôle pendant leur armement et à leur départ final.

(*Names of High Contracting Parties.*)

Her Majesty the Queen, &c. &c.

Alike animated by the desire to diminish, as far as depends on them, the evils inseparable from warfare ; and wishing with this object to adapt to maritime warfare the principles of the Geneva Convention of the [22nd August 1864], 6th July 1906 ; have decided to conclude a Convention for the purpose of revising the Convention of the 29th July 1899, relative to the same subject, and have

[They have, in consequence,] appointed as their Plenipotentiaries, &c. &c. &c. :

(*Names and Description of Plenipotentiaries.*)

Who, after [communication] *deposit* of their full powers, found in good and due form, have agreed on the following provisions :

ARTICLE I.

Military hospital-ships, that is to say, ships constructed or assigned by States specially and solely for the purpose of assisting the wounded, sick, or shipwrecked, and the names of which shall have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as men-of-war as regards their stay in a neutral port.

ARTICLE II.

Hospital-ships, equipped wholly or in part at the cost of private individuals or officially recognised Relief Societies, shall likewise be respected and exempt from capture, provided the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships should be furnished with a certificate from the competent authorities, declaring that they had been under their control while fitting out and on final departure.

ARTICLE III.

Les bâtiments-hospitaliers, équipés en totalité ou en partie aux frais des particuliers ou des Sociétés officiellement reconnues de pays neutres, sont respectés et exempts de capture [si la Puissance neutre dont ils dépendent leur a donné une commission officielle et en a notifié les noms aux Puissances belligérantes à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage], *à condition qu'ils se soient mis sous la direction de l'un des belligérants, avec l'assentiment préalable de leur propre Gouvernement et avec l'autorisation du belligérant lui-même et que ce dernier en ait notifié le nom à son adversaire dès l'ouverture ou dans le cours des hostilités, en tout cas, avant tout emploi.*

ARTICLE IV.

Les bâtiments qui sont mentionnés dans les Articles I., II., et III. porteront secours et assistance aux blessés, malades, et naufragés des belligérants sans distinction de nationalité.

Les Gouvernements s'engagent à n'utiliser ces bâtiments pour aucun but militaire.

Ces bâtiments ne devront gêner en aucune manière les mouvements des combattants.

Pendant et après le combat, ils agiront à leurs risques et périls.

Les belligérants auront sur eu le droit de contrôle et de visite; ils pourront refuser leur concours, leur enjoindre de s'éloigner, leur imposer une direction déterminée, et mettre à bord un commissaire, même les détenir, si la gravité des circonstances l'exigeait.

Autant que possible, les belligérants inscriront sur le journal de bord des bâtiments-hospitaliers les ordres qu'ils leur donneront.

ARTICLE V.

Les bâtiments-hôpitaux militaires seront distingués par une peinture extérieure blanche avec une bande horizontale verte d'un mètre et demi de largeur environ.

Les bâtiments qui sont mentionnés dans les Articles II. et III. seront distingués par une peinture extérieure blanche avec une bande horizontale rouge d'un mètre et demi de largeur environ.

Les embarcations des bâtiments qui viennent d'être mentionnés, comme les petits bâtiments qui pourront être affectés au service hospitalier, se distingueront par une peinture analogue.

Tous les bâtiments-hospitaliers se feront reconnaître en hissant, avec leur pavillon national, le pavillon blanc à croix rouge prévu par la Convention de Genève, *et, en outre, s'ils ressortissent à un État neutre, en arborant au grand mât le pavillon national du belligérant sous la direction duquel ils se sont placés.*

ARTICLE III.

Hospital-ships, equipped wholly or in part at the cost of private individuals or officially recognised Societies of neutral countries, shall be respected and exempt from capture [if the neutral Power to whom they belong has given them an official commission and notified their names to the belligerent Powers at the commencement of or during hostilities, and in any case before they are employed], *on condition that they have placed themselves under the control of one of the belligerents, with the previous approval of their own Government, and with the authorisation of the belligerent himself, and that the latter has notified their name to his adversary from the commencement of or during hostilities, in any case, before they are employed.*

ARTICLE IV.

The ships mentioned in Articles I., II., and III. shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents independently of their nationality.

The Governments pledge themselves not to use these ships for any military purpose.

These ships must not in any way hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents will have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a Commissioner on board; they can even detain them, if important circumstances require it.

As far as possible the belligerents shall inscribe in the sailing papers of the hospital-ships the orders they give them.

ARTICLE V.

The military hospital-ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a half in breadth.

The ships mentioned in Articles II. and III. shall be distinguished by being painted white outside with a horizontal band of red about a metre and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital-ships shall make themselves known by hoisting, together with their national flag, the white flag with a red cross provided by the Geneva Convention, *and besides, if they belong to a neutral State, by flying at the main mast the national flag of the belligerent, under whose control they have placed themselves.*

Les bâtiments-hospitaliers qui, dans les termes de l'Article IV., sont détenus par l'ennemi, auront à rentrer le pavillon national du belligérant dont ils relèvent.

Les bâtiments et embarcations ci-dessus mentionnés, qui veulent s'assurer la nuit le respect auquel ils ont droit, ont, avec l'assentiment du belligérant qu'ils accompagnent, à prendre les mesures nécessaires pour que la peinture qui les caractérise soit suffisamment apparente.

ARTICLE VI.

[Les bâtiments de commerce, yachts, ou embarcations neutres, portant ou recueillant des blessés, des malades, ou des naufragés des belligérants, ne peuvent être capturés pour le fait de ce transport, mais ils restent exposés à la capture pour les violations de neutralité qu'ils pourraient avoir commises.]

Les signes distinctifs prévus à l'Article V. ne pourront être employés, soit en temps de paix, soit en temps de guerre, que pour protéger ou désigner les bâtiments qui y sont mentionnés.

ARTICLE VII.

Dans le cas d'un combat à bord d'un vaisseau de guerre, les infirmeries seront respectées et ménagées autant que faire se pourra.

Ces infirmeries et leur matériel demeurent soumis aux lois de la guerre, mais ne pourront être détournés de leur emploi, tant qu'ils seront nécessaires aux blessés et malades.

Toutefois, le commandant, qui les a en son pouvoir, a la faculté d'en disposer, en cas de nécessité militaire importante, en assurant au préalable le sort des blessés et malades qui s'y trouvent.

ARTICLE VIII.

La protection due aux bâtiments-hospitaliers et aux infirmeries des vaisseaux cesse si l'on en use pour commettre des actes nuisibles à l'ennemi.

N'est pas considéré comme étant de nature à justifier le retrait de la protection le fait que le personnel de ces bâtiments et infirmeries est armé pour le maintien de l'ordre et pour la défense des blessés ou malades, ainsi que le fait de la présence à bord d'une installation radio-télégraphique.

ARTICLE IX.

Les belligérants pourront faire appel au zèle charitable des commandants de bâtiments de commerce, yachts ou embarcations neutres, pour prendre à bord et soigner des blessés ou des malades.

Les bâtiments qui auront répondu à cet appel ainsi que ceux qui spontanément auront receuilli des blessés, des malades ou des naufragés, jouiront d'une protection spéciale et de certaines immunités. En aucun cas, ils ne pourront être capturés pour le fait d'un el transport ; mais, sauf les promesses qui leur auraient été faites,

The hospital-ships that, in the terms of Article IV., are detained by the enemy, must bring down the national flag of the belligerent to which they belong.

The ships and boats above referred to, which, at night, want to ensure the immunities to which they are entitled, must, with the consent of the belligerent whom they accompany, take the necessary measures so that their characteristic painting should be sufficiently plain.

ARTICLE VI.

[Neutral merchantmen, yachts, or vessels, having, or taking on board, sick, wounded, or shipwrecked of the belligerents, cannot be captured for so doing, but they are liable to capture for any violation of neutrality they may have committed.]

The distinguishing signs mentioned in Article V. can only be employed, whether in time of peace or war, to protect or indicate the ships therein referred to.

ARTICLE VII.

In the case of a fight on board a warship, the sick wards shall be respected and spared as much as possible.

These sick wards and their appurtenances continue to be subjected to the laws of war, but cannot be diverted from their ordinary use, so long as they are required for the sick and wounded.

However, the commander, into whose power they are, may dispose of them, in case of serious military need, after having previously provided for the requirements of the wounded and sick on board.

ARTICLE VIII.

The protection due to hospital-ships and to a ship's sick wards cease if they are put to such use as help to injure the enemy.

The fact that the staff of these ships and sick wards is armed for maintaining order and defending the wounded or sick, as well as the fact of there being on board a wireless telegraphy apparatus, do not justify the withdrawal of protection.

ARTICLE IX.

Belligerents may appeal to the zeal and charity of captains of neutral merchant vessels, yachts, or boats to embark and nurse the wounded or sick.

The ships that have answered this appeal, as well as those who have spontaneously rescued wounded, sick, or shipwrecked men, will enjoy a special protection and certain immunities. In no case can they be captured owing to such transport, but apart from promises that may have been made to them they

ils restent exposés à la capture pour les violations de neutralité qu'ils pourraient avoir commises.

ARTICLE [VII.] X.

Le personnel religieux, médical, et hospitalier de tout bâtiment capturé est inviolable et ne peut être fait prisonnier de guerre. Il emporte, en quittant le navire, les objets et les instruments de chirurgie qui sont sa propriété particulière.

Ce personnel continuera à remplir ses fonctions tant que cela sera nécessaire et il pourra ensuite se retirer lorsque le Commandant-en-chef le jugera possible.

Les belligérants doivent assurer à ce personnel tombé entre leurs mains [la jouissance intégrale de son traitement] *les mêmes allocations et la même solde qu'au personnel des mêmes grades de leur propre marine.*

ARTICLE [VIII.] XI.

Les marins et les militaires embarqués, *et les autres personnes officiellement attachées aux marines ou aux armées,* blessés ou malades, à quelque nation qu'ils appartiennent, seront [protégés] *respectés* et soignés par les capteurs.

ARTICLE XII.

Tout vaisseau de guerre d'une partie belligérante peut réclamer la remise des blessés, malades ou naufragés, qui sont à bord de bâtiments-hôpitaux militaires, de bâtiments-hospitaliers de sociétés de secours ou de particuliers, de navires de commerce, yachts et embarcations, quelle que soit la nationalité de ces bâtiments.

ARTICLE XIII.

Si des blessés, malades ou naufragés sont recueillis à bord d'un vaisseau de guerre neutre, il devra être pourvu, dans la mesure du possible, à ce qu'ils ne puissent pas de nouveau prendre part aux opérations de la guerre.

ARTICLE [IX.] XIV.

Sont prisonniers de guerre les naufragés, blessés, ou malades d'un belligérant qui tombent au pouvoir de l'autre. Il appartient à celui-ci de décider, suivant les circonstances, s'il convient de les garder, de les diriger sur un port de sa nation, sur un port neutre, ou même sur un port de l'adversaire. Dans ce dernier cas, les prisonniers ainsi rendus à leur pays ne pourront servir pendant la durée de la guerre.

ARTICLE [X.] XV.

Les naufragés, blessés ou malades, qui sont débarqués dans un port neutre, du consentement de l'autorité locale, devront, a moins d'un arrangement contraire de l'État neutre avec les États

remain liable to capture for all violations against neutrality they may have committed.

ARTICLE [VII.] X.

The religious, medical, or hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave when the Commander-in-chief considers it possible.

The belligerents must guarantee to the staff that has fallen into their hands [the enjoyment of their salaries intact] *the same allowance and pay as drawn by the staff of corresponding rank in their own navy.*

ARTICLE [VIII.] XI.

Sailors and soldiers, who are taken on board when sick or wounded, *and all others officially attached to navies and armies,* to whatever nation they belong, shall be [protected] *respected* and looked after by the captors.

ARTICLE XII.

Every belligerent warship can claim the handing over of wounded, sick, or shipwrecked men, who are on board military, relief societies, or private hospital-ships, merchant vessels, yachts, and boats, whatever their nationality may be.

ARTICLE XIII.

If wounded, sick, or shipwrecked men are rescued by a neutral warship, every possible arrangement must be made so that they should take no further share in the operations of the war.

ARTICLE [IX.] XIV.

The shipwrecked, wounded, or sick of one of the belligerents who fall into the hands of the other, are prisoners of war. The captor must decide, according to circumstances, if it is best to keep them or send them to a port of his own country, to a neutral port, or even to a hostile port. In the last case, prisoners thus repatriated cannot serve as long as the war lasts.

ARTICLE [X.] XV.

The shipwrecked, wounded, or sick, who are landed at a neutral port with the consent of the local authorities, must, failing a contrary arrangement between the neutral State and the belligerents, be guarded by the neutral

belligérants, être gardés par l'État neutre de manière qu'ils ne puissent pas de nouveau prendre part aux opérations de la guerre. *Les frais d'hospitalisation et d'internement seront supportés par l'État dont relèvent les naufragés, blessés ou malades.*

[ARTICLE XI.

Les règles contenues dans les Articles ci-dessus ne sont obligatoires que pour les Puissances Contractantes, en cas de guerre entre deux ou plusieurs d'entre elles.

Les dites règles cesseront d'être obligatoires du moment où, dans une guerre entre des Puissances Contractantes, une Puissance non contractante se joindrait à l'un des belligérants.]

[ARTICLE XII.

La présente Convention sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à La Haye.

Il sera dressé du dépôt de chaque ratification un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances Contractantes.]

[ARTICLE XIII.

Les Puissances non signataires, qui auront accepté la Convention de Genève du 22 Août 1864, sont admises à adhérer à la présente Convention.

Elles auront, à cet effet, à faire connaître leur adhésion aux Puissances Contractantes, au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et communiquée par celui-ci à toutes les autres Puissances Contractantes.]

[ARTICLE XIV.

S'il arrivait qu'une des Hautes Parties Contractantes dénonçât la présente Convention, cette dénonciation ne produirait ses effets qu'un an après la notification faite par écrit au Gouvernement des Pays-Bas et communiquée immédiatement par celui-ci à toutes les autres Puissances Contractantes.

Cette dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.]

[En foi de quoi les Plénipotentiaires ont signé la présente Convention, et l'ont revêtue de leurs cachets.]

ARTICLE XVI.

Après chaque combat, les deux Parties belligérantes, en tant que les intérêts militaires le comportent, prendront des mesures pour rechercher les naufragés les blessés et les malades et pour les faire protéger, ainsi que les morts, contre le pillage et les mauvais traitements.

State, so that they may not be again able to take part in the military operations.

The hospital and internment expenses shall be borne by the State to which the shipwrecked, wounded, or sick belong.

[ARTICLE XI.

The rules contained in the above Articles are binding only on the Contracting Powers, in case of war between two or more of them.

The said rules shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.]

[ARTICLE XII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

On the receipt of each ratification a *procès-verbal* shall be drawn up, a copy of which, duly certified, shall be sent through the diplomatic channel to all the Contracting Powers.]

[ARTICLE XIII.

The non-Signatory Powers who accepted the Geneva Convention of the 22nd August 1864, are allowed to adhere to the present Convention.

For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification addressed to the Netherland Government, and by it communicated to all the other Contracting Powers.]

[ARTICLE XIV.

In the event of one of the High Contracting Parties denouncing the present Convention, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and forthwith communicated by it to all the other Contracting Powers.

This denunciation shall only affect the notifying Power.]

[In faith of which the respective Plenipotentiaries have signed the present Convention and affixed their seals thereto.]

ARTICLE XVI.

After every encounter, the two belligerents, as far as military interests permit, will take measures to look for the shipwrecked, wounded, and sick, and protect them as well as the dead against pillage and ill-treatment.

Elles veilleront à ce que l'inhumation, l'immersion ou l'incinération des morts soit précédée d'un examen attentif de leurs cadavres.

ARTICLE XVII.

Chaque belligérant enverra, dès qu'il sera possible, aux autorités de leur pays, de leur marine ou de leur armée, les marques ou pièces militaires d'identité trouvées sur les morts et l'état nominatif des blessés ou malades recueillis par lui.

Les belligérants se tiendront réciproquement au courant des internements et des mutations, ainsi que des entrées dans les hôpitaux et des décès survenus parmi les blessés et malades en leur pouvoir. Ils recueilleront tous les objets d'un usage personnel, valeurs, lettres, etc., qui seront trouvés dans les vaisseaux capturés, ou délaissés par les blessés ou malades décédés dans les hôpitaux, pour les faire transmettre aux intéressés par les autorités de leur pays.

ARTICLE XVIII.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances Contractantes et seulement si les belligérants sont tous parties à la Convention.[1]

ARTICLE XIX.

Les commandants-en-chef des flottes des belligérants auront à pourvoir aux détails d'exécution des articles précédents, ainsi qu'aux cas non prévus, d'après les instructions de leurs Gouvernements respectifs et conformément aux principes généraux de la présente Convention.

ARTICLE XX.

Les Puissances Signataires prendront les mesures nécessaires pour instruire leurs marines, et spécialement le personnel protégé, des dispositions de la présente Convention et pour les porter à la connaissance des populations.

ARTICLE XXI.

Les Puissances Signataires s'engagent également à prendre ou à proposer à leurs législatures, en cas d'insuffisance de leurs lois pénales, les mesures nécessaires pour réprimer en temps de guerre, les actes individuels de pillage et de mauvais traitements envers des blessés et malades des marines, ainsi que pour punir, comme usurpation d'insignes militaires, l'usage abusif des signes distinctifs désignés à l'Article V. par des bâtiments non protégés par la présente Convention.

Ils se communiqueront, par l'intermédiaire du Gouvernement des Pays-Bas, les dispositions relatives à cette répression, au plus tard dans les cinq ans de la ratification de la présente Convention.

They shall see that the burial on land or at sea, or the cremation of the dead, is preceded by a careful examination of the corpse.

ARTICLE XVII.

Each belligerent shall send, as soon as possible, to the authorities of their country, navy, or army, the military marks or articles of identity found on the dead, and a return with their names of the wounded and sick picked up by him.

The belligerents shall keep each other informed of internments and changes, also of admissions to hospitals and of deaths which have occurred among the wounded and sick in their power. They shall collect all articles of personal use, valuables, letters, etc., that will be found in the captured ships, or that have been left behind by the wounded and sick who died in hospital, and they shall forward them to those interested through the authorities of their country.

ARTICLE XVIII.

The dispositions of the present Convention are applicable only as between the Contracting Powers, and only if the belligerents are all parties to the Convention.[1]

ARTICLE XIX.

The commanders-in-chief of the belligerent fleets shall provide for the detailed execution of the above articles; they must also see to cases not covered thereby, in accordance with the instructions of their respective Governments and in keeping within the general principles of the present Convention.

ARTICLE XX.

The Signatory Powers shall take all necessary measures to render their naval forces, and especially the staff protected thereby, familiar with the dispositions of the present Convention and to make them known to their own public.

ARTICLE XXI.

The Signatory Powers also pledge themselves, in case their penal laws are inadequate, to make or ask from their legislatures all necessary enactments to check in time of war individual acts of pillage or ill-treatment towards the wounded and sick, and also to penalise, as an illegal use of military marks, the unwarranted adoption of the distinguishing signs reported to in Article V. by ships not protected by the present Convention.

They will communicate through the Netherland Government to each other the enactments relating to such repression five years from the ratification of the present Convention at latest.

[1] The corresponding Article of the Convention of 1899 was Art. XI.

Les règles contenues dans les Articles ci-dessus ne sont obligatoires que pour les Puissances Contractantes, en cas de guerre entre deux ou plusieurs d'entre elles.

Les dites règles cesseront d'être obligatoires du moment où, dans une guerre entre des Puissances Contractantes, une Puissance non contractante se joindrait à l'un des belligérants.

ARTICLE XXII.

En cas d'opérations de guerre entre les forces de terre et de mer des belligérants, les dispositions de la présente Convention ne seront applicables qu'aux forces embarquées.

ARTICLE XXIII.

La présente Convention sera ratifiée aussitôt que possible.[1]

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE XXIV.

Les Puissances non signataires que auront accepté la Convention de Genève du 6 Juillet 1906, sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer, notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE XXV.

La présente Convention, dûment ratifiée, remplacera dans les rapports entre les Puissances contractantes, la Convention du 29 Juillet 1899 pour l'adaptation à la guerre maritime des principes de la Convention de Genève.

ART. XI. The rules contained in the above Articles are binding only on the Contracting Powers, in case of war between two or more of them.

The said rules shall cease to be binding from the time when, in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

ARTICLE XXII.

In the event of warlike operations between the belligerent land and sea forces, the provisions of the present Convention will only be applicable to those forces that are on board.

ARTICLE XXIII.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers that take part therein, and by the Netherland Minister for Foreign Affairs.

Subsequent deposits of ratifications shall be effected through a written notice, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the minute relating to the first deposit of ratifications, of the notices mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent through the diplomatic channel by the Netherland Government to the Powers convened to the Second Peace Conference, as also to the other Powers who have adhered to the Convention. In the cases aimed at by the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notice.

ARTICLE XXIV.

Non-Signatory Powers that have accepted the Geneva Convention of the 6th July 1906 may adhere to the present Convention.

The Power, that wants to adhere, notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion which will be deposited in the archives of the said Government.

The Government shall immediately transmit to all the other Powers a duly certified copy of the notice and of the act of adhesion, stating the date on which the notice was received.

ARTICLE XXV.

The present Convention, duly ratified, shall take the place, in the relations between the Contracting Powers of the Convention of the 29th July 1899, for the adaptation to maritime warfare of the principles of the Geneva Convention.

[1] The words *aussitôt que possible* were substituted for *daus le plus tref delai possible* in the Convention of 1899 without apparent object.

La Convention de 1899 *reste en vigueur dans les rapports entre les Puissances qui l'ont signée et qui ne ratifieraient pas également la présente Convention.*

ARTICLE XXVI.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt, et, pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE XXVII.

S'il arrivait qu'une des Puissances Contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas, qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XXVIII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt des ratifications effectué en vertu de l'Article XXIII., alinéas 3 *et* 4, *ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article XXIV., alinéa* 2) *ou de dénonciation (Article XXVII., alinéa* 1).

Chaque Puissance Contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le [vingt-neuf Juillet, mil huit cent quatre-vingt dix-neuf] 18 *Octobre* 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas, et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances Contractantes.

(Signatures.)

The Convention of 1899 *remains in force as between the Powers that have signed it and that would not also ratify the present Convention.*

ARTICLE XXVI.

The present Convention will take effect, for the Powers that were a party to the first deposit of ratifications, sixty days after the date on the minute of this deposit, and, for the Powers who ratify subsequently, or who adhere, sixty days after notice of their ratification or adhesion has been received by the Netherland Government.

ARTICLE XXVII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, the denunciation will be notified in writing to the Netherland Government, which shall at once communicate a duly certified copy of the notice to all the other Contracting Powers informing them of the date on which it was received.

The denunciation will only be operative as regards the Power notifying it, and the year after the notice has reached the Netherland Government.

ARTICLE XXVIII.

A register kept by the Netherland Ministry for Foreign Affairs will show the date of the deposit of ratifications effected in virtue of Article XXIII., §§ 3 and 4, *as well as the date on which the notices of Adhesion (Article XXIV.,* § 2) *or of denunciation (Article XXVII.,* § 1) *were received.*

Every Contracting Power is entitled to have access to this register, and to ask for certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague the [29th July 1899], the 18th October 1907, in a single copy, which shall be kept in the archives of the Government of the Netherlands, and copies of which, duly certified, shall be sent through the diplomatic channel to the Contracting Powers.

(11) CONVENTION RELATING TO CERTAIN RESTRICTIONS IN THE EXERCISE OF THE RIGHT OF CAPTURE IN MARITIME WAR

(Convention relative à certaines restrictions à l'exercice du droit de capture dans la guerre maritime)

(*Noms des Hautes Parties Contractantes.*)

Reconnaissant la nécessité de mieux assurer que par le passé l'application équitable du droit aux relations maritimes internationales en temps de guerre ;

Estimant que, pour y parvenir, il convient, en abandonnant ou en conciliant le cas échéant dans un intérêt commun certaines pratiques divergentes anciennes, d'entreprendre de codifier dans des règles communes les garanties dues au commerce pacifique et au travail inoffensif, ainsi que la conduite des hostilités sur mer ; qu'il importe de fixer dans des engagements mutuels écrits les principes demeurés jusqu'ici dans le domaine incertain de la controverse ou laissés à l'arbitraire des Gouvernements ;

Que, dès à présent, un certain nombre de règles peuvent être posées, sans qu'il soit porté atteinte au droit actuellement en vigueur concernant les matières qui n'y sont pas prévues ;

Ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes :

Chapitre I.

De la Correspondance Postale.

ARTICLE I.

La correspondance postale des neutres ou des belligérants, quel que soit son caractère officiel ou privé, trouvée en mer sur un navire neutre ou ennemi, est inviolable. S'il y a saisie du navire, elle est expédiée avec le moins de retard possible par le capteur.

Les dispositions de l'alinéa précédent ne s'appliquent pas, en cas de violation de blocus, à la correspondance qui est à destination ou en provenance du port bloqué.

ARTICLE II.

L'inviolabilité de la correspondance postale ne soustrait pas les paquebots-poste neutres aux lois et coutumes de la guerre

(*Names of the High Contracting Parties.*)

Recognising the necessity of assuring the equitable application of law to international maritime relations in time of war better than in the past ;

Being of opinion that, in view of this object, it is desirable, by abandoning or reconciling, if need be, in the common interest, certain old divergent practices, to undertake to codify into general rules the guarantees requisite for peaceful commerce and inoffensive work, as well as the conduct of maritime warfare ; that it is necessary to fix in mutual written engagements, principles which down to the present have been left to the drifting region of controversy or to the arbitrary action of governments ;

That it is now possible to fix a certain number of rules, without interfering with the law at present in force, concerning matters not provided for therein ;

Have appointed as their Plenipotentiaries the following :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and due form, have agreed on the following provisions :

Chapter I.

Postal Correspondence.

ARTICLE I.

Postal correspondence of neutrals or of belligerents, whether it be of an official or of a private character, which shall be found at sea on board a neutral or enemy vessel, is inviolable. If the vessel is seized, the correspondence shall be sent on with as little delay as possible by the captor.

The provisions of the preceding paragraph shall not apply, in case of violation of a blockade, to correspondence destined for or coming from the blockaded port.

ARTICLE II.

The inviolability of postal correspondence does not exempt neutral mail ships from the laws and customs of maritime warfare relating to neutral

sur mer concernant les navires de commerce neutres en général. Toutefois, la visite n'en doit être effectuée qu'en cas de nécessité, avec tous les ménagements et toute la célérité possibles.

Chapitre II.

De l'Exemption de Capture pour certains Bateaux.

ARTICLE III.

Les bateaux exclusivement affectés à la pêche côtière ou à des services de petite navigation locale sont exempts de capture, ainsi que leurs engins, agrès, apparaux et chargement.

Cette exemption cesse de leur être applicable dès qu'ils participent d'une façon quelconque aux hostilités.

Les Puissances contractantes s'interdisent de profiter du caractère inoffensif desdits bateaux pour les employer dans un but militaire en leur conservant leur apparence pacifique.

ARTICLE IV.

Sont également exempts de capture les navires chargés de missions religieuses, scientifiques ou philanthropiques.

Chapitre III.

Du Régime des Équipages des Navires de Commerce Ennemis capturés par un Belligérant.

ARTICLE V.

Lorsqu'un navire de commerce ennemi est capturé par un belligérant, les hommes de son équipage, nationaux d'un État neutre, ne sont pas faits prisonniers de guerre.

Il en est de même du capitaine et des officiers, également nationaux d'un État neutre, s'ils promettent formellement par écrit de ne pas servir sur un navire ennemi pendant la durée de la guerre.

ARTICLE VI.

Le capitaine, les officiers et les membres de l'équipage nationaux de l'État ennemi, ne sont pas faits prisonniers de guerre, à condition qu'ils s'engagent, sous la foi d'une promesse formelle écrite, à ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre.

ARTICLE VII.

Les noms des individus laissés libres dans les conditions visées à l'Article V., alinéa 2, et à l'Article VI., sont notifiés par le belligérant capteur à l'autre belligérant. Il est interdit à ce dernier d'employer sciemment lesdits individus.

merchant ships in general. Nevertheless, visit and search should only be exercised in respect of them in case of necessity, and then with every consideration and all possible speed.

Chapter II.

On the Exemption from Capture of certain Boats.

ARTICLE III.

Boats solely intended for coast fishing or for petty local navigation are exempt from capture, as well as their appliances, rigging, fittings, and cargo.

This exemption ceases to apply to them whenever they in any way take part in the hostilities.

The Contracting Powers undertake not to take advantage of the inoffensive character of the said boats, and employ them for military purposes while at the same time preserving their inoffensive appearance.

ARTICLE IV.

Are likewise exempt from capture, vessels entrusted with religious, scientific, or philanthropic missions.

Chapter III.

Rules as to Crews of Enemy Merchant Ships captured by a Belligerent.

ARTICLE V.

When an enemy merchant ship is captured by a belligerent, its crew, if belonging to a neutral State, are not made prisoners of war.

The same applies to the captain and officers when belonging to a neutral State, provided they deliberately undertake in writing not to serve on an enemy vessel during the war.

ARTICLE VI.

The captain, officers, and members of the crew, if belonging to the enemy State, are not made prisoners of war provided they undertake by a deliberate written promise not to enter, during the hostilities, any service relating to the operations of war.

ARTICLE VII.

The names of the persons left free under the conditions set out in Article V., § 2, and in Article VI., are notified by the capturing belligerent to the other belligerent. The latter is forbidden knowingly to employ the said persons.

ARTICLE VIII.

Les dispositions des trois articles précédents ne s'appliquent pas aux navires qui prennent part aux hostilités.

CHAPITRE IV.

Dispositions Finales.

ARTICLE IX.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous Parties à la Convention.

ARTICLE X.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent ainsi que des instruments de ratification, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE XI.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifié par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE XII.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt de ratifications, soixante

ARTICLE VIII.

The provisions of the three preceding articles do not apply to vessels which take part in the hostilities.

CHAPTER IV.

Final Provisions.

ARTICLE IX.

The provisions of the present Convention are only applicable as among the Contracting Powers, and provided the belligerents are all parties to the Convention.

ARTICLE X.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein, and by the Netherland Minister for Foreign Affairs.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and through the diplomatic channel to the Powers convened to the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases provided for in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE XI.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE XII.

The present Convention shall take effect as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date

jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE XIII.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

ARTICLE XIV.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt des ratifications effectué en vertu de l'Article X., alinéas 3 et 4, ainsi que la date àl aquelle auront été reçues les notifications d'adhésion (Article XI., alinéa 2) ou de dénonciation (Article XIII., alinéa 1).

Chaque Puissance contractante est admise à prendre connaissance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le 18 Octobre 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE XIII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it, one year from the date on which the Netherland Government shall have received it.

ARTICLE XIV.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected by virtue of Article X., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article XI., § 2) or of denunciation (Article XIII., § 1).

Each Contracting Power shall have the right to examine this register, and to claim certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channel to the Powers who have been convened to the Second Peace Conference.

(12) CONVENTION RELATIVE TO THE ESTABLISHMENT OF AN INTERNATIONAL PRIZE COURT

(Convention relative à l'établissement d'une cour internationale des prises)

(*Noms des Hautes Parties Contractantes.*)

Animés du désir de régler d'une manière équitable les différends qui s'élèvent, parfois, en cas de guerre maritime, à propos des décisions des tribunaux de prises nationaux ;

Estimant que, si ces tribunaux doivent continuer a statuer suivant les formes prescrites par leur législation, il importe que, dans des cas déterminés, un recours puisse être formé sous des conditions qui concilient, dans la mesure du possible, les intérêts publics et les intérêts privés engagés dans toute affaire de prises ;

Considérant, d'autre part, que l'institution d'une Cour internationale, dont la compétence et la procédure seraient soigneusement réglées, a paru le meilleur moyen d'atteindre ce but ;

Persuadés, enfin, que de cette façon les conséquences rigoureuses d'une guerre maritime pourront être atténuées ; que notamment les bons rapports entre les belligérants et les neutres auront plus de chance d'être maintenus et qu'ainsi la conservation de la paix sera mieux assurée ;

Désirant conclure une convention à cet effet, ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

TITRE I.

Dispositions Générales.

ARTICLE I.

La validité de la capture d'un navire de commerce ou de sa cargaison est, s'il s'agit de propriétés neutres ou ennemies, établie devant une juridiction des prises conformément à la présente Convention.

ARTICLE II.

La juridiction des prises est exercée d'abord par les tribunaux de prises du belligérant capteur.

(*Names of the High Contracting Parties.*)

Animated by the desire to settle in an equitable manner differences which arise from time to time in maritime warfare, in connection with decisions of national Prize Courts ;

Holding, that if such Courts are to continue to give decisions in accordance with the forms prescribed by their legislation, it is important that, in certain cases, recourse be provided under conditions harmonising, as far as possible, with the public and private interests involved in all Prize cases ;

Considering, on the other hand, that the formation of an international Court with a carefully regulated competence and procedure seems the best means of attaining this object ;

Being, moreover, convinced that in this manner the rigorous consequences of a maritime war may be attenuated : that, in particular, good relations between belligerents and neutrals are more likely to be maintained, and, in consequence, the preservation of peace better assured ;

Desiring to conclude a Convention to this effect, have named as their Plenipotentiaries the following :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions :

TITLE I.

General Provisions.

ARTICLE I.

The validity of the capture of a merchant vessel or of its cargo is, if neutral or enemy property is concerned, decided by a Prize Court in accordance with the present Convention.

ARTICLE II.

The prize jurisdiction is exercised in the first place by the Prize Courts of the capturing belligerent.

Les décisions de ces tribunaux sont prononcées en séance publique ou notifiées d'office aux parties neutres ou ennemies.

ARTICLE III.

Les décisions des tribunaux de prises nationaux peuvent être l'objet d'un recours devant la Cour internationale des prises :

1°. lorsque la décision des tribunaux nationaux concerne les propriétés d'une Puissance ou d'un particulier neutres ;

2°. lorsque ladite décision concerne des propriétés ennemies et qu'il s'agit :

(*a*) de marchandises chargées sur un navire neutre,

(*b*) d'un navire ennemi, qui aurait été capturé dans les eaux territoriales d'une Puissance neutre, dans le cas où cette Puissance n'aurait pas fait de cette capture l'objet d'une réclamation diplomatique,

(*c*) d'une réclamation fondée sur l'allégation que la capture aurait été effectuée en violation, soit d'une disposition conventionnelle en vigueur entre les Puissances belligérantes, soit d'une disposition légale édictée par le belligérant capteur.

Le recours contre la décision des tribunaux nationaux peut être fondé sur ce que cette décision ne serait pas justifiée, soit en fait, soit en droit.

ARTICLE IV.

Le recours peut être exercé :

1°. par une Puissance neutre, si la décision des tribunaux nationaux a porté atteinte à ses propriétés ou à celles de ses ressortissants (Article III.,—1°) ou s'il est allégué que la capture d'un navire ennemi a eu lieu dans les eaux territoriales de cette Puissance (Article III.,—2°(*b*)) ;

2°. par un particulier neutre, si la décision des tribunaux nationaux a porté atteinte à ses propriétés (Article III.,—1°), sous réserve toutefois du droit de la Puissance dont il relève, de lui interdire l'accès de la Cour ou d'y agir elle-même en ses lieu et place ;

3°. par un particulier relevant de la Puissance ennemie, si la décision des tribunaux nationaux a porté atteinte à ses propriétés dans les conditions visées à l'Article III.,—2°, à l'exception du cas prévu par l'alinéa *b*.

The decisions of these Courts are delivered at public sittings, or notified *ex officio* to the neutral or enemy parties.

ARTICLE III.

The decisions of national Prize Courts may be the subject of appeal to the international Prize Court :

1. When the decisions of the national Courts concern the property of a neutral State or individual ;
2. When the said decision concerns enemy property and relates to :
   (*a*) goods on board a neutral vessel,
   (*b*) an enemy vessel, captured in the territorial waters of a neutral Power, in case that Power has not made such capture a matter of diplomatic claim,
   (*c*) a claim founded on an allegation that the capture has been effected in violation either of a treaty provision in force between the belligerent Powers, or of a provision in the laws of the capturing belligerent.

The recourse against the decision of the national Courts may be based on the allegation that such decision is not justified, either in fact or in law.

ARTICLE IV.

Recourse may be exercised :

1. By a neutral Power if the decision of the national Court is prejudicial to its property or to that of its subjects or citizens (Article III., § 1), or if it is alleged that the capture of an enemy vessel has taken place in the territorial waters of that Power (Article III., § 2 (*b*)) ;
2. By a private neutral, if the decision of the national Court is prejudicial to its property (Article III., § 1), subject, however, to the right of the Power of which he is a subject or citizen to forbid him access of the Court, or to act itself in his name and place ;
3. By a private individual belonging to the enemy Power, if the decision of the national Courts is prejudicial to his property under the conditions set out in Article III., § 2, excepting the case provided for in subsection *b*.

ARTICLE V.

Le recours peut aussi être exercé, dans les mêmes conditions qu'à l'Article précédent, par les ayants-droit, neutres ou ennemis, du particulier auquel le recours est accordé, et qui sont intervenus devant la juridiction nationale. Ces ayants-droit peuvent exercer individuellement le recours dans la mesure de leur intérêt.

Il en est de même des ayants-droit, neutres ou ennemis, de la Puissance neutre dont la proprieté est en cause.

ARTICLE VI.

Lorsque, conformément à l'Article III., ci-dessus, la Cour internationale est compétente, le droit de juridiction des tribunaux nationaux ne peut être exercé à plus de deux degrés. Il appartient à la législation du belligérant capteur de décider si le recours est ouvert après la décision rendue en premier ressort ou seulement après la décision rendue en appel ou en cassation.[1]

Faute par les tribunaux nationaux d'avoir rendu une décision définitive dans les deux ans à compter du jour de la capture, la Cour[2] peut être saisie directement.

ARTICLE VII.

Si la question de droit à resoudre est prévue par une Convention en vigueur entre le belligérant capteur et la Puissance qui est elle-même partie au litige ou dont le ressortissant est partie au litige, la Cour se conforme aux stipulations de ladite Convention.

A défaut de telles stipulations, la Cour applique les règles du droit international. Si des règles généralement reconnues n'existent pas, la Cour statue d'après les principes généraux de la justice et de l'équité.

Les dispositions ci-dessus sont également applicables en ce qu concerne l'ordre des preuves ainsi que les moyens qui peuvent être employés.

Si, conformément à l'Article III.,—2° (*c*), le recours est fondé sur la violation d'une disposition légale édictée par le belligérant capteur, la Cour applique cette disposition.

La Cour peut ne pas tenir compte des déchéances de procédure édictées par la législation du belligérant capteur, dans les cas où elle estime que les conséquences en sont contraires à la justice et à l'équité.

ARTICLE VIII.

Si la Cour prononce la validité de la capture du navire ou de la cargaison, il en sera disposé conformément aux lois du belligérant capteur.

ARTICLE V.

Recourse may also be exercised, in the same conditions as in the preceding Article, by the legal representatives, neutral or enemy, of the private person to whom recourse is granted, and who have appeared before the national jurisdiction. These legal representatives may individually exercise the recourse to the extent of their interest.

This applies also to the legal representatives, neutral or enemy, of the neutral Power whose property is involved.

ARTICLE VI.

When, in accordance with Article III., the international Court is competent, the right of jurisdiction of the national Courts can only be exercised to the extent of two degrees. It is for the legislation of the capturing belligerent to decide whether the recourse is open after the first decision has been delivered or only after it has been delivered on appeal or by a Court of Cassation.[1]

If the national Courts fail to deliver a final decision within two years from the date of capture, the Court[2] may be seized directly.

ARTICLE VII.

If the legal question involved is provided for by a Convention in force between the capturing belligerent and the Power which is itself a party in the case, or whose subject or citizen is a party thereto, the Court complies with the stipulations of the said Convention.

In default of such stipulations, the Court applies the rules of international law. If there are no generally recognised rules in existence, the Court decides in accordance with the general principles of justice and equity.

The above provisions are alike applicable as regards the order of the evidence and the methods which may be employed.

If, in accordance with Article III., § 2 (*c*), the recourse is founded upon the violation of a provision in the laws of the capturing belligerent, the Court applies that provision.

The Court may disregard any forfeiture owing to non-observance of procedure forming part of the legislation of the capturing belligerent, in cases where it considers that the consequences are contrary to justice and equity.

ARTICLE VIII.

If the Court pronounces the validity of the capture of the vessel or of the cargo, it shall be disposed of in accordance with the laws of the capturing belligerent.

[1] To include the Court of Cassation, in the case of the French judicial system, opens up the possibility of a re-trial by the national Appeal Court.

[2] That is, the international Court.

Si la nullité de la capture est prononcée, la Cour ordonne la restitution du navire ou de le cargaison et fixe, s'il y a lieu, le montant des dommages-intérêts. Si le navive ou la cargaison ont été vendus ou détruits, la Cour détermine l'indemnité à accorder de ce chef au propriétaire.

Si la nullité de la capture avait été prononcée par la juridiction nationale, la Cour n'est appelée à statuer que sur les dommages et intérêts.

ARTICLE IX.

Les Puissances contractantes s'engagent à se soumettre de bonne foi aux décisions de la Cour internationale des prises et à les exécuter dans le plus bref délai possible.

TITRE II.

Organisation de la Cour Internationale des Prises.

ARTICLE X.

La Cour internationale des prises se compose de juges et de juges suppléants, nommés par les Puissances contractantes et qui tous devront être des jurisconsultes d'une compétence reconnue dans les questions de droit international maritime et jouissant de la plus haute considération morale.

La nomination de ces juges et juges suppléants sera faite dans les six mois qui suivront la ratification de la présente Convention.

ARTICLE XI.

Les juges et juges suppléants sont nommés pour une période de six ans, à compter de la date où la notification de leur nomination aura été reçue par le Conseil administratif institué par la Convention pour le règlement pacifique des conflits internationaux du 29 Juillet 1899. Leur mandat peut être renouvelé.

En cas de décès ou de démission d'un juge ou d'un juge suppléant, il est pourvu à son remplacement selon le mode fixé pour sa nomination. Dans ce cas, la nomination est faite pour une nouvelle période de six ans.

ARTICLE XII.

Les juges de la Cour internationale des prises sont égaux entre eux et prennent rang d'après la date où la notification de leur nomination aura été reçue (Article XI., alinéa 1), et, s'ils siègent à tour de rôle (Article XV., alinéa 2), d'après la date de leur entrée en fonctions. La préséance appartient au plus âgé, au cas où la date est la même.

If the capture be pronounced null and void, the Court orders the restitution of the vessel or of the cargo, and fixes, if necessary, the amount of the damages to be paid. If the vessel or cargo has been sold or destroyed, the Court fixes the indemnity to be granted in respect thereof to the owner.

If the nullity of the capture had been pronounced by the national jurisdiction, the Court has only to fix the amount of the damages.

ARTICLE IX.

The Contracting Powers shall undertake to submit in good faith to the decisions of the international Prize Court, and to execute them with as little delay as possible.

TITLE II.

Organisation of the International Prize Court.

ARTICLE X.

The international Prize Court shall be composed of judges and assistant judges appointed by the Contracting Parties, all of whom shall be lawyers whose competence in matters of international maritime law is well known, and who enjoy the highest moral reputation.

The appointment of such judges and assistant judges shall take place within six months from the ratification of the present Convention.

ARTICLE XI.

The judges and assistant judges are appointed for a period of six years from the date at which their appointment shall have been received by the Administrative Council instituted by the Convention for the peaceful settlement of international conflicts of 29th July 1899. They may be reappointed.

In case of the death or resignation of a judge or assistant judge, he shall be replaced in the same way as fixed for his appointment. In this case the appointment is made for a further period of six years.

ARTICLE XII.

The judges of the international Prize Court are all equal, and take rank from the date at which notice of their appointment is received (Article XI., § 1), and, if they sit each in turn (Article XV., § 2), according to the date of their taking up their duties. Precedence belongs to the older in case the date is the same.

Les juges suppléants sont, dans l'exercice de leurs fonctions, assimilés aux juges titulaires. Toutefois ils prennent rang après ceux-ci.

ARTICLE XIII.

Les juges jouissent des privilèges et immunités diplomatiques dans l'exercice de leurs fonctions et en dehors de leur pays.

Avant de prendre possession de leur siège, les juges doivent, devant le Conseil administratif, prêter serment ou faire une affirmation solennelle d'exercer leurs fonctions avec impartialité et en toute conscience.

ARTICLE XIV.

La Cour fonctionne au nombre de quinze juges; neuf juges constituent le quorum nécessaire.

Le juge absent ou empêché est remplacé par le suppléant.

ARTICLE XV.

Les juges nommés par les Puissances contractantes dont les noms suivent: l'Allemagne, les États-Unis d'Amérique l'Autriche-Hongrie, la France, la Grande-Bretagne, l'Italie, le Japon et la Russie sont toujours appelés à siéger.

Les juges et les juges suppléants nommés par les autres Puissances contractantes siègent à tour de rôle d'après le tableau annexé à la présente Convention; leurs fonctions peuvent être exercées successivement par la même personne. Le même juge peut être nommé par plusieurs desdites Puissances.

ARTICLE XVI.

Si une Puissance belligérante n'a pas, d'après le tour de rôle, un juge siégeant dans la Cour, elle peut demander que le juge nommé par elle prenne part au jugement de toutes les affaires provenant de la guerre. Dans ce cas, le sort détermine lequel des juges siégeant en vertu du tour de rôle doit s'abstenir. Cette exclusion ne saurait s'appliquer au juge nommé par l'autre belligérant.

ARTICLE XVII.

Ne peut siéger le juge qui, à un titre quelconque, aura concouru à la décision des tribunaux nationaux ou aura figuré dans l'instance comme conseil ou avocat d'une partie.

Aucun juge, titulaire ou suppléant, ne peut intervenir comme agent ou comme avocat devant la Cour internationale des prises ni y agir pour une partie en quelque qualité que ce soit, pendant toute la durée de ses fonctions.

Assistant judges are in the exercise of their duties assimilated to the ordinary judges. Nevertheless they rank after the latter.

ARTICLE XIII.

Judges enjoy diplomatic privileges and immunities in the exercise of their duties and outside their own country.

Before entering upon their duties, the judges shall take oath or solemnly undertake before the Administrative Council to exercise their functions impartially and conscientiously.

ARTICLE XIV.

The Court is composed of fifteen judges, nine of whom constitute the necessary quorum.

When a judge is absent or prevented from sitting, he is replaced by the assistant judge.

ARTICLE XV.

Judges appointed by the following Contracting Powers: Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, and Japan and Russia, are always called upon to sit.

The judges and assistant judges appointed by the other Contracting Powers sit in turns, according to the schedule annexed to the present Convention; their duties may be exercised successively by the same person. The same judge may be appointed by several of the said Powers.

ARTICLE XVI.

If any belligerent Power has not, according to the roll, a judge sitting on the Court, such Power may request that the judge whom it has appointed shall take part in the judgment of all matters arising out of the war. In this case it shall be decided by drawing lots which of the sitting judges shall abstain. This exclusion shall not apply to the judge appointed by the other belligerent.

ARTICLE XVII.

No judge, having in any way whatsoever taken part in the decision of the national Courts, or having acted as counsel or advocate to either party, shall sit.

No judge, ordinary or assistant, shall intervene as agent or advocate before the international Prize Court, or act for either party, in any capacity whatsoever, throughout his period of office.

ARTICLE XVIII.

Le belligérent capteur a le droit de désigner un officier de marine d'un grade élévé qui siègera en qualité d'assesseur avec voix consultative. La même faculté appartient à la Puissance neutre, qui est elle-même partie au litige ; ou à la Puissance dont le ressortissant est partie au litige ; s'il y a, par application de cette dernière disposition, plusieurs Puissances intéressées, elles doivent se concerter, au besoin par le sort, sur l'officier à désigner.

ARTICLE XIX.

La Cour élit son Président et son Vice-Président à la majorité absolue des suffrages exprimés. Après deux tours de scrutin, l'élection se fait à la majorité relative et, en cas de partage des voix, le sort décide.

ARTICLE XX.

Les juges de la Cour internationale des prises touchent une indemnité de voyage fixée d'après les règlements de leur pays et reçoivent, en outre, pendant la session ou pendant l'exercice de fonctions conférées par la Cour, une somme de cent florins néerlandais par jour.

Ces allocations, comprises dans les frais généraux de la Cour prévus par l'Article XLVII., sont versées par l'entremise du Bureau international institué par la Convention du 29 Juillet 1899.

Les juges ne peuvent recevoir de leur propre Gouvernement ou de celui d'une autre Puissance aucune rémunération comme membres de la Cour.

ARTICLE XXI.

La Cour internationale des prises a son siège à La Haye et ne peut, sauf le cas de force majeure, le transporter ailleurs qu'avec l'assentiment des parties belligérantes.

ARTICLE XXII.

Le Conseil administratif, dans lequel ne figurent que les représentants des Puissances contractantes, remplit, à l'égard de la Cour internationale des prises, les fonctions qu'il remplit à l'égard de la Cour permanente d'arbitrage.

ARTICLE XXIII.

Le Bureau international sert de greffe à la Cour internationale des prises et doit mettre ses locaux et son organisation à la disposition de la Cour. Il a la garde des archives et la gestion des affaires administratives.

Le secrétaire général du Bureau international remplit les fonctions de greffier.

ARTICLE XVIII.

The capturing belligerent has the right to appoint a naval officer of high rank to sit as assessor, with power to express his opinions. The same right belongs to the neutral Power which is itself a party in the case, or to the Power whose subject or citizen is a party in it; if, by reason of the application of this last provision several Powers are interested, they must determine, if need be by the drawing of lots, who shall be the officer appointed.

ARTICLE XIX.

The Court elects its President and Vice-President by an absolute majority of votes. After polling twice, the election shall be determined by the relative majority of votes; and in case the votes are equally divided, drawing of lots shall be resorted to.

ARTICLE XX.

The judges of the international Prize Court shall receive an indemnity for their journey, the amount of which shall be fixed according to the regulations of their country, and shall receive in addition, during the session or during the exercise of the functions conferred by the Court, a sum of one hundred Dutch florins a day.[1]

The said allowance, included in the general expenses of the Court, provided by Article XLVII., shall be paid by the International Bureau, instituted by the Convention of 29th July 1899.

The judges shall not receive from their own Government or from any other Government any remuneration as members of the Court.

ARTICLE XXI.

The international Prize Court shall sit at The Hague, and shall not, except in case of *vis major*, be removed elsewhere, and only then with the consent of the belligerent parties.

ARTICLE XXII.

The Administrative Council, in which only the representatives of the Contracting Powers are represented, discharges the same duties in regard to the international Prize Court as it discharges in regard to the Permanent Arbitration Court.

ARTICLE XXIII.

The International Bureau serves as Registration Office to the international Prize Court, and shall place its offices and organisation at the disposal of the Court. It has charge of the archives and the management of administrative matters.

The general secretary of the International Bureau acts as Registrar.

[1] That is £8 to £9 a day.

Les sécrétaires adjoints au greffier, les traducteurs et les sténographes nécéssaires sont désignés et assermentés par la Cour.

ARTICLE XXIV.

La Cour décide du choix de la langue dont elle fera usage et des langues dont l'emploi sera autorisé devant elle.

Dans tous les cas, la langue officielle des tribunaux nationaux, qui ont connu de l'affaire, peut être employée devant la Cour.

ARTICLE XXV.

Les Puissances intéressées ont le droit de nommer des agents spéciaux ayant mission de servir d'intermédiaires entre Elles et la Cour. Elles sont, en outre, autorisées à charger des conseils ou avocats de la défense de leurs droits et intérêts.

ARTICLE XXVI.

Le particulier intéressé sera représenté devant la Cour par un mandataire qui doit être soit un avocat autorisé à plaider devant une Cour d'appel ou une Cour suprême de l'un des Pays contractants, soit un avoué exerçant sa profession auprès d'une telle Cour, soit enfin un professeur de droit à une école d'enseignement supérieur d'un de ces pays.

ARTICLE XXVII.

Pour toutes les notifications à faire, notamment aux parties, aux témoins et aux experts, la Cour peut s'adresser directment au Gouvernement de la Puissance sur le territoire de laquelle la notification doit être effectuée. Il en est de même s'il s'agit de faire procéder à l'établissement de tout moyen de preuve.

Les requêtes adressées à cet effet seront exécutées suivant les moyens dont la Puissance requise dispose d'après sa législation intérieure. Elles ne peuvent être refusées qui si cette Puissance les juge de nature à porter atteinte à sa souveraineté ou à sa sécurité. S'il est donné suite à la requête, les frais ne comprennent que les dépenses d'exécution réellement effectuées.

La Cour a également la faculté de recourir à l'intermédiaire de la Puissance sur le territoire de laquelle elle a son siège.

Les notifications à faire aux parties dans le lieu où siège la Cour peuvent être exécutées par le Bureau international.

TITRE III.

Procédure devant la Cour International des Prises.

ARTICLE XXVIII.

Le recours devant la Cour internationale des prises est formé au moyen d'une déclaration écrite, faite devant le tribunal national

The secretaries of the Registrar, translators, and stenographers are appointed and duly sworn by the Court.

ARTICLE XXIV.

The Court decides upon the choice of the language it shall use and the languages authorised to be used before it.

In any case, the official language of the national Courts who have dealt with the matter may be employed before the Court.

ARTICLE XXV.

The interested Powers have the right to appoint special agents, whose mission is to serve as intermediaries between them and the Court. They are, moreover, authorised to entrust counsel or advocates with the defence of their rights and interests.

ARTICLE XXVI.

Interested private persons shall be represented before the Court by a representative, who shall be either an advocate authorised to plead before a Court of Appeal or a Supreme Court of one of the contracting countries, or a solicitor practising before any such Court, or, lastly, a professor of law at an institution of University rank of one of these countries.

ARTICLE XXVII.

For all notices to be given, in particular to the parties, witnesses, and experts, the Court may address itself directly to the Government of the Power upon whose territory the notice has to be effected. The same shall apply where the object is to procure any kind of evidence.

Requests addressed to this effect shall be carried out according to the means which the requisitioned Power disposes of according to its domestic legislation. They can only be refused in case that Power considers them of a nature prejudicial to its sovereignty or security. If the request is acted upon, the expenses only include the execution actually effected.

The Court has also the right to employ the services of the Power on whose territory it is acting.

The notices to be made to the parties in the place where the Court is sitting may be made by the International Bureau.

TITLE III.

Procedure before the International Prize Court.

ARTICLE XXVIII.

Recourse to the international Prize Court is effected by means of a written declaration, made before the national Court which decided the case, or

qui a statué, ou adressée au Bureau international ; celui-ci peut être saisi même par télégramme.

Le délai du recours est fixé à cent vingt jours à dater du jour où la décision a été prononcée ou notifiée (Article II., alinéa 2).

ARTICLE XXIX.

Si la déclaration de recours est faite devant le tribunal national, celui-ci, sans examiner si le délai a été observé, fait, dans les sept jours qui suivent, expédier le dossier de l'affaire au Bureau international.

Si la déclaration de recours est adressée au Bureau international, celui-ci en prévient directement le tribunal national, par télégramme s'il est possible. Le tribunal transmettra le dossier comme il est dit à l'alinéa précédent.

Lorsque le recours est formé par un particulier neutre, le Bureau international en avise immédiatement par télégramme la Puissance dont relève le particulier, pour permettre à cette Puissance de faire valoir le droit que lui reconnaît l'Article IV.—2°.

ARTICLE XXX.

Dans le cas prévu à l'Article VI., alinéa 2, le recours ne peut être adressé qu'au Bureau international. Il doit être introduit dans les trente jours qui suivent l'expiration du délai de deux ans.

ARTICLE XXXI.

Faute d'avoir formé son recours dans le délai fixé à l'Article XXVIII. ou à l'Article XXX., la partie sera, sans débats, déclarée non recevable.

Toutefois, si elle justifie d'un empêchement de force majeure et si elle a formé son recours dans les soixante jours qui ont suivi la cessation de cet empêchement, elle peut être relevée de la déchéance encourue, la partie adverse ayant été dûment entendue.

ARTICLE XXXII.

Si le recours a été formé en temps utile, la Cour notifie d'office et sans délai à la partie adverse une copie certifiée conforme de la déclaration.

ARTICLE XXXIII.

Si, en dehors des parties qui se sont pourvues devant la Cour, il y a d'autres intéressés ayant le droit d'exercer le recours, ou si, dans le cas prévu à l'Article XXIX., alinéa 3, la Puissance qui a été avisée, n'a pas fait connaître sa résolution, la Cour attend, pour se saisir de l'affaire, que les délais prévus à l'Article XXVIII. ou à l'Article XXX. soient expirés.

addressed to the International Bureau ; the latter may be informed even by telegram.

The delay of recourse is fixed at one hundred and twenty days from the date at which the decision was delivered or notified (Article II., § 2).

ARTICLE XXIX.

If the declaration of recourse is made before the national Court, the latter, without examining if the time fixed has been observed, has the papers of the case sent to the International Bureau within the seven following days.

If the declaration of recourse is addressed to the International Bureau, the latter shall immediately notify the national Court to this effect, by telegram if possible. The Court shall transmit the papers as provided for in the preceding clause.

When the recourse is effected by a neutral private person, the International Bureau shall immediately advise by telegram the Power to which he belongs, so that the said Power may take advantage of the right accorded by Article IV., § 2.

ARTICLE XXX.

In the case provided for by Article VI., § 2, the recourse can only be addressed to the International Bureau. It must be lodged within thirty days after the expiry of the two years.

ARTICLE XXXI.

In case of failure of a party to enter recourse within the time fixed by Article XXVIII. or Article XXX., the application shall be rejected without discussion.

However, if the delay is shown to be due to *vis major*, and if the recourse has been entered within the sixty days from the cessation of the cause of such delay, the application may still be considered, the adverse party having been duly heard.

ARTICLE XXXII.

If the recourse has been entered in due time, the Court gives notice *ex officio* by a certified copy of the declaration to the adverse party.

ARTICLE XXXIII.

If, outside the parties who have entered recourse to the Court, there are others interested having a right to enter recourse, or if, in the case provided for by Article XXIX., § 3, the Power which has been notified has not made known its determination, the Court waits, before taking up the matter, till the time stipulated by Article XXVIII. or Article XXX. has expired.

ARTICLE XXXIV.

La procédure devant la Cour internationale comprend deux phases distinctes : l'instruction écrite et les débats oraux.

L'instruction écrite consiste dans le dépôt et l'échange d'exposés, de contre-exposés et, au besoin, de répliques dont l'ordre et les délais sont fixés par la Cour. Les parties y joignent toutes pièces et documents dont elles comptent se servir.

Toute pièce, produite par une partie, doit être communiquée en copie certifiée conforme à l'autre partie par l'intermédiaire de la Cour.

ARTICLE XXXV.

L'instruction écrite étant terminée, il y a lieu à une audience publique, dont le jour est fixé par la Cour.

Dans cette audience, les parties exposent l'état de l'affaire en fait et en droit.

La Cour peut, en tout état de cause, suspendre les plaidoiries, soit à la demande d'une des parties, soit d'office, pour procéder à une information complémentaire.

ARTICLE XXXVI.

La Cour internationale peut ordonner que l'information complémentaire aura lieu, soit conformément aux dispositions de l'Article XXVII., soit directement devant elle ou devant un ou plusieurs de ses membres en tant que cela peut se faire sans moyen coercitif ou comminatoire.

Si des mesures d'information doivent être prises par des membres de la Cour en dehors du territoire où elle a son siège, l'assentiment du Gouvernement étranger doit être obtenu.

ARTICLE XXXVII.

Les parties sont appelées[1] à assister à toutes mesures d'instruction. Elles reçoivent une copie certifiée conforme des procès-verbaux.

ARTICLE XXXVIII.

Les débats sont dirigés par le Président ou le Vice-Président et, en cas d'absence ou d'empêchement de l'un et de l'autre, par le plus ancien des juges présents.

Le juge nommé par une partie belligérante ne peut siéger comme Président.

ARTICLE XXXIX.

Les débats sont publics sauf le droit pour une Puissance en litige de demander qu'il y soit procédé à huis clos.

ARTICLE XXXIV.

The procedure before the international Court has two distinct stages: the written procedure and oral debates.

The written procedure consists in the deposit and exchange of statements, of counter statements, and, if necessary, of replies, the order and time for which shall be decided by the Court. The parties shall add thereto such documents as they may intend to make use of.

All documents produced by a party shall be communicated by certified copies to the other party by the intermediary of the Court.

ARTICLE XXXV.

The written procedure being terminated, there shall be a public hearing, the date of which shall be fixed by the Court.

At that hearing the parties explain the nature of the issue in fact and in law.

The Court may at any stage in the case suspend the arguments, either at the request of one of the parties or *ex officio*, in order to obtain further evidence.

ARTICLE XXXVI.

The international Court may order that the further evidence be taken, either in accordance with Article XXVII., or directly before it or before one or several of its members, so long as it can be effected without coercive or comminatory means.

If the evidence has to be obtained by members of the Court outside the territory where it is sitting, the consent of the foreign Government has to be obtained.

ARTICLE XXXVII.

The parties are cited[1] to be present at all the measures connected with the taking of the evidence. They shall receive a certified copy of all the minutes.

ARTICLE XXXVIII.

The arguments shall be directed by the President or Vice-President, and in case of one or the other being absent or prevented, by the eldest judge present.

The judge appointed by a belligerent party cannot preside.

ARTICLE XXXIX.

The arguments are public, unless one of the Powers concerned in the case should apply to have them heard with closed doors.

[1] The word *appelé* is vague and ambiguous. Probably the draftsman meant *cité* (cited), as in Article XL.

Ils sont consignés dans des procès-verbaux, que signent le Président et le greffier et qui seuls ont caractère authentique.

ARTICLE XL.

En cas de non comparution d'une des parties, bien que régulièrement citée, ou faute par elle d'agir dans les délais fixés par la Cour, il est procédé sans elle et la Cour décide d'après les éléments d'appréciation qu'elle a à sa disposition.

ARTICLE XLI.

La Cour notifie d'office aux parties toutes décisions ou ordonnances prises en leur absence.

ARTICLE XLII.

La Cour apprécie librement l'ensemble des actes, preuves et déclarations orales.

ARTICLE XLIII.

Les délibérations de la Cour ont lieu à huis clos et restent secrètes.

Toute décision est prise à la majorité des juges présents. Si la Cour siège en nombre pair et qu'il y ait partage des voix, la voix du dernier des juges dans l'ordre de préséance établi d'après l'Article XII., alinéa 1, n'est pas comptée.

ARTICLE XLIV.

L'arrêt de la Cour doit être motivé. Il mentionne les noms des juges qui y ont participé, ainsi que les noms des assesseurs, s'il y a lieu ; il est signé par le Président et par le greffier.

ARTICLE XLV.

L'arrêt est prononcé en séance publique, les parties présentes ou dûment appelées ; il est notifié d'office aux parties.

Cette notification une fois faite, la Cour fait parvenir au tribunal national des prises le dossier de l'affaire en y joignant une expédition des diverses décisions intervenues ainsi qu'une copie des procès-verbaux de l'instruction.

ARTICLE XLVI.

Chaque partie supporte les frais occasionnés par sa propre défense.

La partie qui succombe supporte, en outre, les frais causés par la procédure. Elle doit, de plus, verser un centième de la valeur de l'object litigieux à titre de contribution aux frais généraux de la Cour internationale. Le montant de ces versements est déterminé par l'arrêt de la Cour.

They shall be recorded on the minutes, which shall be signed by the President and the Registrar, and which alone shall have an official character.

ARTICLE XL.

In case one of the parties should not appear, although duly cited, or in case such party should fail to take the necessary steps in the time fixed by the Court, proceedings shall go on without such party, and the Court decides according to the evidence which it has at its disposal.

ARTICLE XLI.

The Court shall, *ex officio*, notify to the parties all the decisions or orders made in their absence.

ARTICLE XLII.

The Court shall form its opinion freely upon all documents, evidence, and oral declarations.

ARTICLE XLIII.

The deliberations of the Court take place with closed doors, and remain secret.

Decisions are taken by a majority of judges present. If there are an even number of judges sitting and the votes are equally divided, the vote of the last judge in the order of precedence, as provided by Article XII., § 1, is not counted.

ARTICLE XLIV.

The judgment of the Court shall state its motives. It shall mention the names of judges delivering it, as well as the names of the assessors, if any ; it shall be signed by the President and Registrar.

ARTICLE XLV.

The judgment is delivered at a public sitting, the parties being present or duly called ; it is, *ex officio*, notified to the parties.

The notification having been effected, the Court shall hand to the national Prize Court the papers of the case, together with an official copy of the various decisions arrived at, and a copy of the minutes of the proceedings.

ARTICLE XLVI.

Each party shall bear the costs of its own defence.

The defeated party also bears the costs of procedure. It pays, in addition, one hundredth part of the value of the matter at issue as a contribution to the general expenses of the international Court. The amount of these payments shall be fixed by the Court.

Si le recours est exercé par un particulier, celui-ci fournit au Bureau international un cautionnement dont le montant est fixé par la Cour et qui est destiné à garantir l'exécution éventuelle des deux obligations mentionnées dans l'alinéa précédent. La Cour peut subordonner l'ouverture de la procédure au versement du cautionnement.

ARTICLE XLVII.

Les frais généraux de la Cour internationale des prises sont supportés par les Puissances contractantes dans la proportion de leur participation au fonctionnement de la Cour telle qu'elle est prévue par l'Article XV. et par le tableau y annexé. La désignation des juges suppléants ne donne pas lieu à contribution.

Le Conseil administratif s'adresse aux Puissances pour obtenir les fonds nécessaires au fonctionnement de la Cour.

ARTICLE XLVIII.

Quand la Cour n'est pas en session, les fonctions qui lui sont conférées par l'Article XXXII., l'Article XXXIV., alinéas 2 et 3, l'Article XXXV., alinéa 1, et l'Article XLVI., alinéa 3, sont exercées par une Délégation de trois juges désignés par la Cour. Cette Délégation décide à la majorité des voix.

ARTICLE XLIX.

La Cour fait elle-même son règlement d'ordre intérieur qui doit être communiqué aux Puissances contractantes.

Dans l'année de la ratification de la présente Convention, elle se réunira pour élaborer ce réglement.

ARTICLE L.

La Cour peut proposer des modifications à apporter aux dispositions de la présente Convention qui concernent la procédure. Ces propositions sont communiquées, par l'intermédiaire du Gouvernement des Pays-Bas, aux Puissances contractantes qui se concerteront sur la suite à y donner.

TITRE IV.

Dispositions Finales.

ARTICLE LI.

La présente Convention ne s'applique de plein droit que si les Puissances belligérantes sont toutes parties à la Convention.

Il est entendu, en outre, que le recours devant la Cour internationale des prises ne peut être exercé que par une Puissance contractante ou le ressortissant d'une Puissance contractante.

If the recourse is entered by a private person, the latter shall deposit as security with the International Bureau an amount which shall be fixed by the Court, and the object of which is to guarantee the fulfilment of the two obligations imposed by the preceding paragraph. The Court may subordinate the opening of the procedure to the deposit of the security.

ARTICLE XLVII.

The general expenses of the international Prize Court shall be borne by the Contracting Powers in the proportion of their participation in the working of the Court, as provided for in Article XV. and the schedule hereto annexed. No contribution is entailed by the appointment of the assistant judges.

The Administrative Council shall apply to the Powers to obtain the necessary funds for the working of the Court.

ARTICLE XLVIII.

When the Court is not sitting the functions which have been entrusted to it by Article XXXII., Article XXXIV., §§ 2 and 3, Articles XXXV., § 1, and Article XLVI., § 3, shall be exercised by a delegation of three judges appointed by the Court. This delegation decides by a majority of the votes.

ARTICLE XLIX.

Within a year of the ratification of the present Convention, it shall assemble to draw up these regulations.

The Court shall itself draw up the regulations for its internal government, which shall be communicated to the Contracting Powers.

ARTICLE L.

The Court may propose modifications to be made to the provisions of the present Convention concerning procedure. Any such proposals shall be communicated through the Netherland Government to the Contracting Powers, which shall concert as to the effect to be given to them.

TITLE IV.

Final Provisions.

ARTICLE LI.

The present Convention shall only be applicable *ipso facto* if all the belligerent Powers are parties thereto.

It is understood, moreover, that recourse to the international Prize Court shall only be exercised by a Contracting Power, or subjects or citizens of a Contracting Power.

Dans les cas de l'Article V., le recours n'est admis que si le propriétaire et l'ayant-droit sont également des Puissances contractantes ou des ressortissants de Puissances contractantes.

ARTICLE LII.

La présente Convention sera ratifiée et les ratifications en seront déposées à La Haye dès que toutes les Puissance, désignées à l'Article XV. et dans son annexe seront en mesure de le faire.

Le dépôt des ratifications aura lieu en tout cas, le 30 Juin 1909, si les Puissances prêtes à ratifier peuvent fournir à la Cour neuf juges et neuf juges suppléants, aptes à siéger effectivement. Dans le cas contraire, le dépôt sera ajourné jusqu'au moment où cette condition sera remplie.

Il sera dressé du dépôt des ratifications un procès-verbal dont une copie, certifiée conforme, sera remise par la voie diplomatique à chacune des Puissances désignées à l'alinéa premier.

ARTICLE LIII.

Les Puissances désignées à l'Article XV. et dans son annexe sont admises à signer la présente Convention jusqu'au dépôt des ratifications prévu par l'alinéa 2 de l'Article précédent.

Après ce dépôt, elles seront toujours admises à y adhérer, purement et simplement. La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant, en même temps, l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement. Celui-ci enverra, par la voie diplomatique, une copie certifiée conforme de la notification et de l'acte d'adhésion à toutes les Puissances désignées à l'alinéa précédent, en leur faisant savoir la date où il a reçu la notification.

ARTICLE LIV.

La présente Convention entrera en vigueur six mois à partir du dépôt des ratifications prévu par l'Article LII., alinéas 1 et 2.

Les adhésions produiront effet soixante jours après que la notification en aura été reçue par le Gouvernement des Pays-Bas et, au plus tôt, à l'expiration du délai prévu par l'alinéa précédent.

Toutefois, la Cour internationale aura qualité pour juger les affaires de prises décidées par la juridiction nationale à partir du dépôt des ratifications ou de la réception de la notification des adhésions. Pour ces décisions, le délai fixé à l'Article XXVIII.,

In the case of Article V., recourse is only granted when the owner and his legal representative are also Contracting Powers, or subjects or citizens of Contracting Powers.

ARTICLE LII.

The present Convention shall be ratified, and the ratifications shall be deposited at The Hague as soon as all the Powers appointed according to Article XV. and under its schedule shall be able to do so.

The deposit of the ratifications shall take place, in any case, on 30th June 1909, if the Powers which are ready to ratify can furnish the Court with nine judges and nine assistant judges capable of sitting effectively.[1] In the contrary case, the deposit shall be postponed until this condition shall have been complied with.

Minutes of the deposit of the ratifications shall be drawn up, a certified copy of which shall be handed through the diplomatic channel to each of the Powers mentioned in the first paragraph hereof.

ARTICLE LIII.

The Powers set out in Article XV. and its schedule may sign the present Convention down to the time of the deposit of the ratifications as stipulated by § 2 of the preceding Article.

After the deposit has been made, they may still adhere to it purely and simply. Any Power wishing to adhere shall notify its intention in writing to the Netherland Government and send therewith the act of adhesion, which shall be deposited in the archives of the said Government. The latter shall send a certified copy of the notification and act of adhesion through the diplomatic channel to all the Powers mentioned in the preceding paragraph, and shall mention at the same time the date of receipt of such notification.

ARTICLE LIV.

The present Convention shall come into force six months from the date of the deposit of the ratifications provided for by Article LII.; §§ 1 and 2.

The adhesions shall take effect sixty days after the notification has been received by the Netherland Government, and, at the earliest, at the expiry of the time fixed by the preceding paragraph.

Nevertheless, the international Court shall be competent to judge prize cases decided by the national jurisdiction from the date of the deposit of the ratifications or of the receipt of the notification of adhesion. For adhesions, the time fixed by Article XXVIII., § 2, shall only count from the date of the

[1] That is to say, capable of being in attendance when wanted.

alinéa 2, ne sera compté que de la date de la mise en vigueur de la Convention pour les Puissances ayant ratifié ou adhéré.

ARTICLE LV.

La présente Convention aura une durée de douze ans à partir de sa mise en vigueur, telle qu'elle est déterminée par l'Article LIV., alinéa 1, même pour les Puissances ayant adhéré postérieurement.

Elle sera renouvelée tacitement de six ans en six ans sauf dénonciation.

La dénonciation devra être, au moins un an avant l'expiration de chacune des périodes prévues par les deux alinéas précédents, notifiée par écrit au Gouvernement des Pays-Bas qui en donnera connnaissance à toutes les autres Parties contractantes.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée. La Convention subsistera pour les autres Puissances contractantes, pourvu que leur participation à la désignation des juges soit suffisante pour permettre le fonctionnement de la Cour avec neuf juges et neuf juges suppléants.

ARTICLE LVI.

Dans le cas où la présente Convention n'est pas en vigueur pour toutes les Puissances désignées dans l'Article XV. et le tableau qui s'y rattache, le Conseil administratif dresse, conformément aux dispositions de cet article et de ce tableau, la liste des juges et des juges suppléants pour lesquels les Puissances contractantes participent au fonctionnement de la Cour. Les juges appelés à siéger à tour de rôle seront, pour le temps qui leur est attribué par le tableau susmentionné, répartis entre les différentes années de la période de six ans, de manière que, dans la mesure du possible, la Cour fonctionne chaque année en nombre égal. Si le nombre des juges suppléants dépasse celui des juges, le nombre de ces derniers pourra être complété par des juges suppléants désignés par le sort parmi celles des Puissances qui ne nomment pas de juge titulaire.

La liste ainsi dressée par le Conseil administratif sera notifiée aux Puissances Contractantes. Elle sera révisée quand le nombre de celles-ci sera modifié par suite d'adhésions ou de dénonciations.

Le changement à opérer par suite d'une adhésion ne se produira qu'à partir du 1er Janvier qui suit la date à laquelle l'adhésion a son effet, à moins que la Puissance adhérente ne soit une Puissance belligérante, cas auquel elle peut demander d'être aussitôt représentée dans la Cour, la disposition de l'Article XVI. étant du reste applicable, s'il y a lieu.

Quand le nombre total des juges est inférieur à onze, sept juges constituent le quorum nécessaire.

coming into force of the Convention for Powers which have ratified or adhered thereto.

ARTICLE LV.

The present Convention shall be valid for a period of twelve years from the date of its coming into force, as stipulated by Article LIV., § 1, even for Powers which have subsequently adhered thereto.

It shall be tacitly renewed every six years unless it is denounced.

The denunciation shall be notified in writing to the Netherland Government at least a year before the expiry of each of the periods stipulated in the two preceding paragraphs. The Netherland Government shall communicate the said notification to the other Contracting Parties.

The denunciation shall only be effective as regards the Power which has notified it. The Convention shall subsist for the other Contracting Powers so long as their participation in the appointing of the judges is sufficient to allow the working of the Court with nine judges and nine assistant judges.

ARTICLE LVI.

In case the present Convention should not be in force as regards all the Powers mentioned in Article XV. and the schedule hereto, the Administrative Council shall draw up, according to the provisions of that article and of the schedule thereto, a list of the judges and assistant judges in respect of whom the Contracting Powers take part in the working of the Court. The judges called upon to sit in turn shall, during the time stipulated for them in the above said table, be divided up among the different years forming the period of six years, so that, as far as possible, the number of judges shall be equal every year. If the number of assistant judges exceeds that of the judges, the number of the latter may be completed by assistant judges selected by drawing lots among the Powers who do not appoint an ordinary judge.

The list thus drawn up by the Administrative Council shall be notified to the Contracting Powers. It shall be revised when the number of the said Powers has been modified owing to adhesions or denunciations.

The change to be effected on account of a new adhesion shall only be made from 1st January, following the date at which the adhesion has taken effect, unless the adhering Power is a belligerent Power, in which case it can apply to be represented in the Court, the provision of Article XVI. being, moreover, applicable according to circumstances.

When the total number of judges shall be inferior to eleven, seven judges shall constitute the necessary quorum.

ARTICLE LVII.

Deux ans avant l'expiration de chaque période visée par les alinéas 1 et 2 de l'Article LV., chaque Puissance contractante pourra demander une modification des dispositions de l'Article XV. et du tableau y annexé, relativement à sa participation au fonctionnement de la Cour. La demande sera adressée au Conseil administratif qui l'examinera et soumettra à toutes les Puissances des propositions sur la suite à y donner. Les Puissances feront, dans le plus bref délai possible, connaître leur résolution au Conseil administratif. Le résultat sera immédiatement, et au moins un an et trente jours avant l'expiration dudit délai de deux ans, communiqué à la Puissance qui a fait la demande.

Le cas échéant, les modifications adoptées par les Puissances entreront en vigueur dès le commencement de la nouvelle période.

En foi de quoi les Plénipotentiaires ont revêtu la présente convention de leurs signatures.

Fait à La Haye, le dix-huit octobre mil neuf cent sept, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances désignées à l'Article XV. et dans son annexe.

ARTICLE LVII.

Two years before the expiry of each period stipulated by §§ 1 and 2 of Article LV., each Contracting Power may apply for the modification of the provisions of Article XV. and of the schedule thereto, regarding its participation in the working of the Court. The application shall be addressed to the Administrative Council, who shall examine it, and submit to all the Powers proposals as to the effect to be given thereto. The Powers shall, with as little delay as possible, make known their resolution to the Administrative Council. The result shall immediately, or at least one year and thirty days before the expiry of the said period of two years, be communicated to the Power which made the application.

Any modifications adopted by the Powers shall come into force from the commencement of the new period.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, 18th October 1907, in a single copy, which shall be deposited in the archives of the Netherland Government, and of which certified copies shall be handed through the diplomatic channel to the Powers indicated in Article XV. and in the schedule thereto.

SCHEDULE TO ARTICLE XV

DISTRIBUTION OF JUDGES AND ASSISTANT JUDGES ACCORDING TO COUNTRY FOR EACH YEAR OF THE PERIOD OF SIX YEARS

(Annexe de l'Article XV)

(Distribution des Juges et Juges Suppléants par Pays pour chaque année de la période de six ans)

	Juges.	Juges Suppléants.
	Ière année.	
1	Argentine	Paraguay
2	Colombie	Bolivie
3	Espagne	Espagne
4	Grèce	Roumanie
5	Norvège	Suède
6	Pays-Bas	Belgique
7	Turquie	Perse
	IIième année.	
1	Argentine	Panama
2	Espagne	Espagne
3	Grèce	Roumanie
4	Norvège	Suède
5	Pays-Bas	Belgique
6	Turquie	Luxembourg
7	Uruguay	Costa Rica
	IIIième année.	
1	Brésil	Dominicaine
2	Chine	Turquie
3	Espagne	Portugal
4	Pays-Bas	Suisse
5	Roumanie	Grèce
6	Suède	Danemark
7	Vénézuéla	Haïti

	Juges.	Juges Suppléants.
	IVième année.	
1	Brésil	Guatémala
2	Chine	Turquie
3	Espagne	Portugal
4	Pérou	Honduras
5	Roumanie	Grèce
6	Suède	Danemark
7	Suisse	Pays-Bas
	Vième année.	
1	Belgique	Pays-Bas
2	Bulgarie	Monténégro
3	Chili	Nicaragua
4	Danemark	Norvège
5	Mexique	Cuba
6	Perse	Chine
7	Portugal	Espagne
	VIième année.	
1	Belgique	Pays-Bas
2	Chili	Salvador
3	Danemark	Norvège
4	Mexique	Equateur
5	Portugal	Espagne
6	Serbie	Bulgarie
7	Siam	Chine

(13) CONVENTION CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN CASE OF MARITIME WAR

(Convention concernant les Droits et les Devoirs des Puissances neutres en cas de guerre maritime)

(*Noms des Hautes Parties Contractantes.*)

En vue de diminuer les divergences d'opinion qui, en cas de guerre maritime, existent encore au sujet des rapports entre les Puissances neutres et les Puissances belligérantes, et de prévenir les difficultés auxquelles ces divergences pourraient donner lieu ;

Considérant que, si l'on ne peut concerter dès maintenant des stipulations s'étendant à toutes les circonstances qui peuvent se présenter dans la pratique, il y a néanmoins une utilité incontestable à établir, dans la mesure du possible, des règles communes pour le cas où malheureusement la guerre viendrait à éclater ;

Considérant que, pour les cas non prévus par la présente Convention, il y a lieu de tenir compte des principes généraux du droit des gens ;

Considérant qu'il est désirable que les Puissances édictent des prescriptions précises pour régler les conséquences de l'état de neutralité [1] qu'elles auraient adopté ;

Considérant que c'est, pour les Puissances neutres, un devoir reconnu d'appliquer impartialement aux divers belligérants les règles adoptées par elles ;

Considérant que, dans cet ordre d'idées, ces règles ne devraient pas, en principe, être changées, au cours de la guerre, par une Puissance neutre, sauf dans le cas où l'expérience acquise en démontrerait la nécessité pour la sauvegarde de ses droits ;

Sont convenus d'observer les règles communes suivantes qui ne sauraient, d'ailleurs, porter aucune atteinte aux stipulations des traités généraux existants, et ont nommé pour Leurs Plénipotentiaires, savoir :

(*Désignation des Plénipotentiaires.*)

Lesquels, après avoir déposé leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Les belligérants sont tenus de respecter les droits souverains des Puissances neutres et de s'abstenir, dans le territoire ou les

(*Names of the High Contracting Parties.*)

With a view to diminish the divergencies of opinion which, in case of maritime war, still exist with respect to the relations between neutral and belligerent Powers, and to avert the difficulties which may arise from these divergencies ;

Whereas, though it is impossible at present to make stipulations applicable to every case which may arise in practice, it is, nevertheless, unquestionably useful to establish, with respect to what may happen, some universal rules in the event of war unfortunately breaking out ;

Whereas, with respect to cases not provided for by the present Convention, the general principles of the law of nations should be taken into account ;

Whereas it is desirable that the Powers should lay down precise stipulations to regulate the consequences of the status [1] of neutrality which they may have adopted ;

Whereas it is a recognised duty of neutral Powers to apply impartially to the different belligerents the rules adopted by them ;

Whereas, in this respect, these rules should not, in principle, be altered, during the course of a war, by a neutral Power, except in case of experience having shown the necessity of doing so, for the preservation of its own rights ;

Have agreed to observe the following common rules, which, however, shall in no way affect the stipulations of existing general treaties, and have appointed as their Plenipotentiaries :

(*Names and Description of Plenipotentiaries.*)

Who, after having deposited their full powers, found in good and due form, have agreed as follows :

ARTICLE I.

Belligerents are bound to respect the sovereign rights of neutral Powers, and to abstain, either on the territory or in neutral waters, from all acts which

[1] The word *état* seems here to mean status. To adopt an *état de neutralité* is not a precise form of expression.

eaux neutres, de tous actes qui constitueraient de la part des Puissances qui les tolèreraient un manquement à leur neutralité.

ARTICLE II.

Tous actes d'hostilité, y compris la capture et l'exercice du droit de visite, commis par des vaisseaux de guerre belligérants dans les eaux territoriales d'une Puissance neutre, constituent une violation de la neutralité et sont strictement interdits.

ARTICLE III.

Quand un navire a été capturé dans les eaux territoriales d'une Puissance neutre, cette Puissance doit, si la prise est encore dans sa juridiction, user des moyens dont elle dispose pour que la prise soit relâchée avec ses officiers et son équipage, et pour que l'équipage mis à bord par le capteur soit interné.

Si la prise est hors de la juridiction de la Puissance neutre, le Gouvernement capteur, sur la demande de celle-ci, doit relâcher la prise avec ses officiers et son équipage.

ARTICLE IV.

Aucun tribunal des prises ne peut être constitué par un belligérant sur un territoire neutre ou sur un navire dans des eaux neutres.

ARTICLE V.

Il est interdit aux belligérants de faire des ports et des eaux neutres la base d'opérations navales contre leurs adversaires, notamment d'y installer des stations radio-télégraphiques ou tout appareil destiné à servir comme moyen de communication avec des forces belligérantes sur terre ou sur mer.

ARTICLE VI.

La remise, à quelque titre que ce soit, faite directement ou indirectement par une Puissance neutre à une Puissance belligérante, de vaisseaux de guerre, de munitions, ou d'un matériel de guerre quelconque, est interdite.

ARTICLE VII.

Une Puissance neutre n'est pas tenue d'empêcher l'exportation ou le transit, pour le compte de l'un ou de l'autre des belligérants, d'armes, de munitions, et, en général, de tout ce qui peut être utile à une armée ou à une flotte.

ARTICLE VIII.

Un Gouvernement neutre est tenu d'user des moyens dont il dispose pour empêcher dans sa juridiction l'équipement ou

might constitute on the part of the Powers permitting them a non-observance of their neutrality.

ARTICLE II.

All acts of hostility, including capture and the exercise of the right of visit and search by belligerent ships of war in the territorial waters of a neutral Power, constitute a breach of neutrality, and are strictly forbidden.

ARTICLE III.

When a vessel has been captured in the territorial waters of a neutral Power, this Power shall, if the prize is still within its jurisdiction, use all means in its power to effect the release of the prize and its officers and crew, and that the crew placed on board by the captor shall be interned.

If the prize is out of the jurisdiction of the neutral Power, the capturing Government shall, on the request of the former, release the prize with its officers and crew.

ARTICLE IV.

No Prize Court can be constituted by a belligerent on neutral territory, or on a vessel in neutral waters.

ARTICLE V.

Belligerents are forbidden to make neutral ports and waters the base of naval operations against their adversaries, especially by installing radio-telegraphic stations or any apparatus which may serve as means of communication with belligerent forces on sea or on land.

ARTICLE VI.

The supply, under any ground whatever, either directly or indirectly, by a neutral Power to a belligerent Power, of ships of war, or of munitions, or of material of war of any kind, is forbidden.

ARTICLE VII.

A neutral Power is not bound to prevent the exportation or transit, for the account of either belligerent, of arms, munitions of war, or, in general, of anything which may be useful to an army or a fleet.

ARTICLE VIII.

A neutral Government is bound to use the means at its disposal to prevent, within its jurisdiction, the equipping or arming of any vessel, which it has any

l'armement de tout navire, qu'il a des motifs raisonnables de croire destiné à croiser ou à concourir à des opérations hostiles contre une Puissance avec laquelle il est en paix. Il est aussi tenu d'user de la même surveillance[1] pour empêcher le départ hors de sa juridiction de tout navire destiné à croiser ou à concourir à des opérations hostiles, et qui aurait été, dans ladite juridiction, adapté en tout ou en partie à des usages de guerre.

ARTICLE IX.

Une Puissance neutre doit appliquer également aux deux belligérants les conditions, restrictions ou interdictions, édictées par elle pour ce qui concerne l'admission dans ses ports, rades ou eaux territoriales, des navires de guerre belligérants ou de leurs prises.

Toutefois, une Puissance neutre peut interdire l'accès de ses ports et de ses rades au navire belligérant qui aurait négligé de se conformer aux ordres et prescriptions édictés par elle ou qui aurait violé la neutralité.

ARTICLE X.

La neutralité d'une Puissance n'est pas compromise par le simple passage dans ses eaux territoriales des navires de guerre et des prises des belligérants.

ARTICLE XI.

Une Puissance neutre peut laisser les navires de guerre des belligérants se servir de ses pilotes brevetés.

ARTICLE XII.

A défaut d'autres dispositions spéciales de la législation de la Puissance neutre, il est interdit aux navires de guerre des belligérants de demeurer dans les ports et rades ou dans les eaux territoriales de ladite Puissance, pendant plus de 24 heures, sauf dans les cas prévus par la présente Convention.

ARTICLE XIII.

Si une Puissance avisée de l'ouverture des hostilités apprend qu'un navire de guerre d'un belligérant se trouve dans un de ses ports et[2] rades ou dans ses eaux territoriales, elle doit notifier audit navire qu'il devra partir dans les 24 heures ou dans le délai prescrit par la loi locale.

ARTICLE XIV.

Un navire de guerre belligérant ne peut prolonger son séjour dans un port neutre au delà de la durée légale que pour cause

reasonable suspicion of being destined to act as a cruiser or to join in hostile operations against a Power with which it is at peace.

It is also bound to exercise the same vigilance[1] to prevent the departure out of its jurisdiction of any vessel intending to act as a cruiser or take part in hostile operations, and which, within the said jurisdiction, may have been adapted either wholly or in part for warlike purposes.

ARTICLE IX.

A neutral Power must apply equally to the two belligerents the restrictions, conditions, or interdictions specified by it relating to admission to its ports, roadsteads, or territorial waters, with respect to ships of war or their prizes.

A neutral Power may, however, forbid access to its ports and roadsteads to any belligerent vessel which may have neglected to comply with the orders and directions issued by it, or may have commited a breach of neutrality.

ARTICLE X.

The neutrality of a Power is not compromised by the simple passage through its territorial waters of belligerent ships of war and of their prizes.

ARTICLE XI.

A neutral Power may allow ships of war of belligerents to make use of its licensed pilots.

ARTICLE XII.

In default of other special provisions in the laws of a neutral Power, ships of war of belligerents are forbidden to remain in the ports and roadsteads or in the territorial waters of the said Power, for more than twenty-four hours, except in the cases provided for by the present Convention.

ARTICLE XIII.

If a Power which has received notice of the commencement of hostilities learns that a ship of war of a belligerent is in one of its ports and[2] roadsteads or in its territorial waters, it shall notify the said ship that it must leave within twenty-four hours, or within the time prescribed by the local law.

ARTICLE XIV.

A belligerent ship of war may not prolong its stay in a neutral port beyond the legal period, except for the purpose of repairing damage or by

[1] This is probably intended as the equivalent of the English term "diligence."
[2] Should this not be "ou"? Comp. Article XXV.

d'avaries ou à raison de l'état de la mer. Il devra partir dès que la cause du retard aura cessé.

Les règles sur la limitation du séjour dans les ports, rades et eaux neutres, ne s'appliquent pas aux navires de guerre exclusivement affectés à une mission religieuse, scientifique ou philanthropique.

ARTICLE XV.

A défaut d'autres dispositions spéciales de la législation de la Puissance neutre, le nombre maximum des navires de guerre d'un belligérant qui pourront se trouver en même temps dans un de ses ports ou rades, sera de trois.

ARTICLE XVI.

Lorsque des navires de guerre des deux parties belligérantes se trouvent simultanément dans un port ou une rade neutres, il doit s'écouler au moins 24 heures entre le départ du navire d'un belligérant et le départ du navire de l'autre.

L'ordre des départs est déterminé par l'ordre des arrivées, à moins que le navire arrivé le premier ne soit dans le cas où la prolongation de la durée légale du séjour est admise.

Un navire de guerre belligérant ne peut quitter un port ou une rade neutres moins de 24 heures après le départ d'un navire de commerce portant le pavillon de son adversaire.

ARTICLE XVII.

Dans les ports et rades neutres, les navires de guerre belligérants ne peuvent réparer leurs avaries que dans la mesure indispensable à la sécurité de leur navigation et non pas accroître, d'une manière quelconque leur force militaire. L'autorité neutre constatera la nature des réparations à effectuer qui devront être exécutées le plus rapidement possible.

ARTICLE XVIII.

Les navires de guerre belligérants ne peuvent pas se servir des ports, rades et eaux territoriales neutres, pour renouveler ou augmenter leurs approvisionnements militaires ou leur armement ainsi que pour compléter leurs équipages.

ARTICLE XIX.

Les navires de guerre belligérants ne peuvent se ravitailler dans les ports et rades neutres que pour compléter leur approvisionnement normal du temps de paix.

Ces navires ne peuvent, de même, prendre du combustible que pour gagner le port le plus proche de leur propre pays. Ils peuvent, d'ailleurs, prendre le combustible nécessaire pour

reason of the state of the sea.[1] It must leave as soon as the cause of the delay has ceased.

The rules relating to the limitation of stay in ports, roadsteads, and neutral waters do not apply to ships of war exclusively employed on religious, scientific, or philanthropic missions.

ARTICLE XV.

In default of other special provisions in the laws of the neutral Power, the maximum number of ships of war of a belligerent which may be at the same time in one of its ports or roadsteads, shall be three.

ARTICLE XVI.

When ships of war of two belligerents are at the same time in a neutral port or roadstead, twenty-four hours at least must elapse between the departure of the ship of either belligerents before that of the other.

The order of departure shall be regulated by the order of arrival, unless the vessel arriving first is entitled to a prolongation of the legal period of its stay.

A belligerent ship of war may not leave a neutral port or roadstead until at least twenty-four hours after the departure of a merchant vessel carrying the flag of its adversary.

ARTICLE XVII.

In neutral ports and roadsteads, belligerent ships of war may only repair damage to the extent indispensable for their seaworthiness, and may not, in any way, increase their military strength. The neutral authority will ascertain the nature of the repairs to be executed, which shall be carried out as rapidly as possible.

ARTICLE XVIII.

Belligerent ships of war may not make use of neutral ports, roadsteads, and territorial waters for the purpose of renewing or increasing their military equipment or armament, or for completing their crews.

ARTICLE XIX.

Belligerent ships may not revictual in neutral ports or roadsteads, except to complete their normal supplies as in time of peace. These ships may also only take on board the fuel necessary for the purpose of reaching the nearest port

[1] The English equivalent term would be "stress of weather."

compléter le plein de leurs soutes proprement dites, quand ils se trouvent dans les pays neutres qui ont adopté ce mode de détermination du combustible à fournir.

Si, d'après la loi de la Puissance neutre, les navires ne reçoivent du charbon que 24 heures après leur arrivée, la durée légale de leur séjour est prolongée de 24 heures.

ARTICLE XX.

Les navires de guerre belligérants, qui ont pris du combustible dans le port d'une Puissance neutre, ne peuvent renouveler leur approvisionnement qu'après trois mois dans un port de la même Puissance.

ARTICLE XXI.

Une prise ne peut être amenée dans un port neutre que pour cause d'innavigabilité, de mauvais état de la mer, de manque de combustible ou de provisions.

Elle doit repartir aussitôt que la cause qui en a justifié l'entrée a cessé. Si elle ne le fait pas, la Puissance neutre doit lui notifier l'ordre de partir immédiatement; au cas où elle ne s'y conformerait pas, la Puissance neutre doit user des moyens dont elle dispose pour la relâcher avec ses officiers et son équipage et interner l'équipage mis à bord par le capteur.

ARTICLE XXII.

La Puissance neutre doit, de même, relâcher la prise qui aurait été amenée en dehors des conditions prévues par l'Article XXI.

ARTICLE XXIII.

Une Puissance neutre peut permettre l'accès de ses ports et rades aux prises escortées ou non, lorsqu'elles y sont amenées pour être laissées sous séquestre en attendant la décision du tribunal des prises. Elle peut faire conduire la prise dans un autre de ses ports.

Si la prise est escortée par un navire de guerre, les officiers et les hommes mis à bord par le capteur sont autorisés à passer sur le navire d'escorte.

Si la prise voyage seule, le personnel placé à son bord par le capteur est laissé en liberté.

ARTICLE XXIV.

Si, malgré la notification de l'autorité neutre, un navire de guerre belligérant ne quitte pas un port dans lequel il n'a pas le droit de rester, la Puissance neutre a le droit de prendre les mesures qu'elle pourra juger nécessaires pour rendre le navire

of their own country. They may also take in fuel sufficient to fill up their bunkers properly so-called, if they are in a neutral country which has adopted this method of fixing the amount of fuel to be supplied.

If, according to the law of the neutral Power, ships may only receive coal twenty-four hours after their arrival, the legal period of their stay is prolonged for twenty-four hours.

ARTICLE XX.

Belligerent ships of war which have taken in fuel in the port of a neutral Power, cannot renew their supply in a port of the same Power within three months.

ARTICLE XXI.

A prize may not be brought into a neutral port except by reason of its unseaworthiness, or of the state of the sea, or of insufficiency of fuel or provisions.

It must leave again as soon as the cause of its entry has ceased. If it does not do so, the neutral Power shall give it notice to leave immediately; in the event of its not complying therewith, the neutral Power shall use the means at its disposal to release it with its officers and crew and intern the crew placed on board by the captor.

ARTICLE XXII.

The neutral Power shall also release any prize which has been brought in not in accordance with the conditions laid down in Article XXI.

ARTICLE XXIII.

A neutral Power may allow access to its ports and roadsteads to prizes, whether escorted or not, when they have been brought there to be left in sequestration pending the decision of a Prize Court. It may have the prize conducted to any other of its ports.

If the prize is escorted by a ship of war, the officers and men placed on board by the captor are allowed to go on board the escorting ship.

If the prize is navigating alone, the *personnel* placed on board is set at liberty.

ARTICLE XXIV.

If, in spite of notice from the neutral authority, a belligerent ship of war does not leave a port in which it has no right to remain, the neutral Power has the right to take such steps as it may think proper to render the ship

incapable de prendre la mer pendant la durée de la guerre et le commandant du navire doit faciliter l'exécution de ces mesures.

Lorsqu'un navire belligérant est retenu par une Puissance neutre, les officiers et l'équipage sont également retenus.

Les officiers et l'équipage ainsi retenus peuvent être laissés dans le navire ou logés, soit sur un autre navire, soit à terre, et ils peuvent être assujettis aux mesures restrictives qu'il paraîtrait nécessaire de leur imposer. Toutefois, on devra toujours laisser sur le navire les hommes nécessaires à son entretien.

Les officiers peuvent être laissés libres en prenant l'engagement sur parole de ne pas quitter le territoire neutre sans autorisation.

ARTICLE XXV.

Une Puissance neutre est tenue d'exercer la surveillance, que comportent les moyens dont elle dispose, pour empêcher dans ses ports ou rades et dans ses eaux toute violation des dispositions qui précédent.

ARTICLE XXVI.

L'exercice par une Puissance neutre des droits définis par la présente Convention ne peut jamais être considéré comme un acte peu amical par l'un ou par l'autre belligérant qui a accepté les articles qui s'y réfèrent.

ARTICLE XXVII.

Les Puissances contractantes se communiqueront réciproquement, en temps utile, toutes les lois, ordonnances et autres dispositions réglant chez elles le régime des navires de guerre belligérants dans leurs ports et leurs eaux, au moyen d'une notification adressée au Gouvernement des Pays-Bas et transmise immédiatement par celui-ci aux autres Puissances contractantes.

ARTICLE XXVIII.

Les dispositions de la présente Convention ne sont applicables qu'entre les Puissances contractantes et seulement si les belligérants sont tous parties à la Convention.

ARTICLE XXIX.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à La Haye.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les représentants des Puissances qui y prennent part et par le Ministre des Affaires Etrangères des Pays-Bas.

incapable of going to sea during the continuance of the war, and the commander of the ship must facilitate the taking of such steps.

When a belligerent ship is detained by a neutral Power, the officers and crew are also detained.

The officers and crew thus detained may be left on board the ship or lodged either on board another vessel or on shore, and they may be subjected to such restrictive measures as may be considered necessary to be imposed on them. In any event, sufficient men must be left on board the ship to keep it in order.

The officers may be released on giving their parole not to leave the neutral territory without permission.

ARTICLE XXV.

A neutral Power is bound to exercise such vigilance as the means in its power permit, to prevent within its ports or roadsteads and in its waters any violation of the preceding provisions.

ARTICLE XXVI.

The exercise by a neutral Power of the rights defined by the present Convention can never be considered as an unfriendly act by either belligerent who has accepted the articles relating thereto.

ARTICLE XXVII.

The Contracting Powers will communicate to each other, as soon as feasible, all the laws, ordinances, and other provisions which within their jurisdiction govern belligerent ships of war in their ports and waters, by means of a notification addressed to the Government of the Netherlands, and immediately transmitted by the latter to the other Contracting Powers.

ARTICLE XXVIII.

The provisions of the present Convention are only applicable as between the Contracting Powers, and only if the belligerents are all parties thereto.

ARTICLE XXIX.

The present Convention shall be ratified as soon as possible.

The ratifications shall be lodged at The Hague.

The first deposit of ratifications shall be recorded by a minute signed by the representatives of the Powers taking part therein, and by the Netherland Minister of Foreign Affairs.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et accompagnée de l'instrument de ratification.

Copie certifiée conforme du procès-verbal relatif au premier dépôt de ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification, sera immédiatement remise par les soins du Gouvernement des Pays-Bas et par la voie diplomatique aux Puissances conviées à la Deuxième Conférence de la Paix, ainsi qu'aux autres Puissances qui auront adhéré à la Convention. Dans les cas visés par l'alinéa précédent, ledit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE XXX.

Les Puissances non signataires sont admises à adhérer à la présente Convention.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement des Pays-Bas en lui transmettant l'acte d'adhésion qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes les autres Puissances copie certifiée conforme de la notification ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification.

ARTICLE XXXI.

La présente Convention produira effet pour les Puissances qui auront participé au premier dépôt des ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement ou qui adhéreront, soixante jours après que la notification de leur ratification ou de leur adhésion aura été reçue par le Gouvernement des Pays-Bas.

ARTICLE XXXII.

S'il arrivait qu'une des Puissances contractantes voulût dénoncer la présente Convention, la dénonciation sera notifiée par écrit au Gouvernement des Pays-Bas qui communiquera immédiatement copie certifiée conforme de la notification à toutes les autres Puissances en leur faisant savoir la date à laquelle il l'a reçue.

La dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée et un an après que la notification en sera parvenue au Gouvernement des Pays-Bas.

Deposits of ratifications thereafter shall be effected by a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A certified copy of the minute relating to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall immediately be sent by the Netherland Government and by the diplomatic channel to the Powers convened at the Second Peace Conference, as well as to the other Powers which shall have adhered to the Convention. In the cases referred to in the preceding paragraph, the said Government shall at the same time inform them of the date at which it received the notification.

ARTICLE XXX.

Non-Signatory Powers shall be allowed to adhere to the present Convention.

Any Power wishing to adhere shall give notice of its intention in writing to the Netherland Government, and shall transmit to the latter the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall immediately transmit to all the other Powers a certified copy of the notification and also of the act of adhesion, and indicate the date at which it received the notification.

ARTICLE XXXI.

The present Convention shall take effect, as regards the Powers who shall have taken part in the first deposit of ratifications, sixty days after the date of the minute of this deposit, and, as regards the Powers who shall ratify thereafter or who shall adhere, sixty days after notification of their ratification or of their adhesion shall have been received by the Netherland Government.

ARTICLE XXXII.

In the event of one of the Contracting Powers wishing to denounce the present Convention, such denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a certified copy of the notification to all the other Powers, mentioning at the same time the date at which it was received.

The denunciation shall only have effect as regards the Power having made it, one year from the date on which the Netherland Government shall have received it.

ARTICLE XXXIII.

Un registre tenu par le Ministère des Affaires Etrangères des Pays-Bas indiquera la date du dépôt de ratifications effectué en vertu de l'Article XXIX., alinéas 3 et 4, ainsi que la date à laquelle auront été reçues les notifications d'adhésion (Article XXX., alinéa 2) ou dénonciation (Article XXXII., alinéa 1).

Chaque Puissance contractante est admise à prendre connaisance de ce registre et à en demander des extraits certifiés conformes.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Convention de leurs signatures.

Fait à La Haye, le 18 Octobre 1907, en un seul exemplaire qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances qui ont été conviées à la Deuxième Conférence de la Paix.

ARTICLE XXXIII.

A register kept by the Netherland Ministry of Foreign Affairs shall indicate the date of the deposit of the ratifications effected in virtue of Article XXIX., §§ 3 and 4, and also the date of receipt of the notifications of adhesion (Article XXX., § 2) or of denunciation (Article XXXII., § 1).

Each Contracting Power shall have the right to examine this register and to claim certified extracts therefrom.

In faith of which, the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and certified copies of which shall be sent through the diplomatic channel to the Powers which have been convened to the Second Peace Conference.

(14) DECLARATION RELATING TO THE PROHIBITION AGAINST DISCHARGING PROJECTILES AND EXPLOSIVES FROM BALLOONS

(Déclaration relative à l'interdiction de lancer des projectiles et des explosifs du haut de ballons)

Les Soussignés, Plénipotentiaires des Puissances [représentées] *conviées* à la *deuxième* Conférence Internationale de la Paix à La Haye, dûment autorisés à cet effet par leurs Gouvernements [S'inspirant des sentiments qui ont trouvé leur expression dans la Déclaration de Saint-Pétersbourg du 29 Novembre (11 Décembre) 1868], *Et désirant renouveler la déclaration de La Haye du* 29 *Juillet* 1899 *arrivée à expiration,*

Déclarent :

Les Puissances Contractantes consentent, pour une [durée de cinq ans] *période allant jusqu, à la fin de la troisième Conférence de la Paix*, à l'interdiction de lancer des projectiles et des explosifs du haut de ballons ou par d'autres modes analogues nouveaux.

La présente Déclaration n'est obligatoire que pour les Puissances Contractantes, en cas de guerre entre deux ou plusieurs d'entre elles.

Elle cessera d'être obligatoire du moment où, dans une guerre entre des Puissances Contractantes, une Puissance non-Contractante se joindrait à l'un des belligérants.

La présente Déclaration sera ratifiée dans le plus bref délai possible.

Les ratifications seront déposées à La Haye.

Il sera dressé du dépôt de [chaque] ratification*s* un procès-verbal, dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances Contractantes.

Les Puissances non-Signataires pourront adhérer à la présente Déclaration. Elles auront, à cet effet, à faire connaître leur adhésion aux Puissances Contractantes, au moyen d'une notification écrite, adressée au Gouvernement des Pays-Bas et communiquée par celui-ci à toutes les autres Puissances Contractantes.

S'il arrivait qu'une des Hautes Parties Contractantes dénonçât la présente Déclaration, cette dénonciation ne produirait ses effets qu'un an après la notification faite par écrit au Gouvernement des Pays-Bas et communiquée immédiatement par celui-ci à toutes les autres Puissances Contractantes.

The Undersigned, Plenipotentiaries of the Powers [represented] *convoked* to the *Second* International Peace Conference at The Hague, duly authorised to that effect by their Governments [Inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December) 1868], *and desiring to renew the declaration of The Hague of the 29th July* 1899 *now expired,*

Declare that :

The Contracting Powers agree to prohibit, for a *period coincident with the termination of the Third Peace Conference*, the launching of projectiles and explosives from balloons, or by other new methods of a similar nature.

The present Declaration is only binding on the Contracting Powers in case of war between two or more of them.

It shall cease to be binding from the time when in a war between the Contracting Powers, one of the belligerents is joined by a non-Contracting Power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

A *procès-verbal* shall be drawn up on the receipt of [each] *the* ratification*s*, of which a copy, duly certified, shall be sent through the diplomatic channel to all the Contracting Powers.

The non-Signatory Powers may adhere to the present Declaration. For this purpose they must make their adhesion known to the Contracting Powers by means of a written notification addressed to the Netherlands Government, and communicated by it to all the other Contracting Powers.

In the event of one of the High Contracting Parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherlands Government, and by it forthwith communicated to all the other Contracting Powers.

Cette dénonciation ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.

En foi de quoi, les Plénipotentiaires ont [signé] *revêtu* la présente Déclaration et [l'ont revêtue de leurs cachets] *de leur signatures.*

Fait à La Haye [le 29 Juillet 1899], le 18 Octobre 1907, en un seul exemplaire, qui restera déposé dans les archives du Gouvernement des Pays-Bas et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances Contractantes.

This denunciation shall only affect the notifying Power.

In witness whereof the Plenipotentiaries have [signed], affixed their signatures to, this Declaration [and affixed their Seals thereto].

Done at The Hague [29th July 1899], the 18th October 1907, in a single copy, which shall remain in the archives of the Netherland Government, and certified copies of which shall be transmitted to the Contracting Powers through the diplomatic channel.

2. DECLARATION OF LONDON CONCERNING THE LAWS OF NAVAL WAR (1909)

(DÉCLARATION RELATIVE AU DROIT DE LA GUERRE MARITIME)

(Declaration of London concerning the Laws of Naval War)

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse; le Président des États-Unis d'Amérique; Sa Majesté l'Empereur d'Autriche, Roi de Bohême, &c., et Roi Apostolique de Hongrie; Sa Majesté le Roi d'Espagne; le Président de la République Française; Sa Majesté le Roi du Royaume-Uni de Grande-Bretagne et d'Irlande et des Territoires Britanniques au delà des Mers, Empereur des Indes; Sa Majesté le Roi d'Italie; Sa Majesté l'Empereur du Japon; Sa Majesté la Reine des Pays-Bas; Sa Majesté l'Empereur de Toutes les Russies;

Considérant l'invitation par laquelle le Gouvernement Britannique a proposé à diverses Puissances de se réunir en Conférence afin de déterminer en commun ce que comportent les règles généralement reconnues du droit international au sens de l'Article VII. de la Convention du 18 Octobre 1907, relative à l'établissement d'une Cour internationale des prises;

Reconnaissant tous les avantages que, dans le cas malheureux d'une guerre maritime, la détermination desdites règles présente, soit pour le commerce pacifique, soit pour les belligérants et pour leurs relations politiques avec les Gouvernements neutres;

Considérant que les principes généraux du droit international sont souvent, dans leur application pratique, l'objet de méthodes divergentes;

Animés du désir d'assurer dorénavant une plus grande uniformité à cet égard;

Espérant qu'une œuvre d'un intérêt commun aussi important rencontrera l'approbation générale;

Ont nommé pour Leurs Plénipotentiaires, savoir:

(*Translation.*)

His Majesty the German Emperor, King of Prussia; the President of the United States of America; His Majesty the Emperor of Austria, King of Bohemia, &c., and Apostolic King of Hungary; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Majesty the Queen of the Netherlands; His Majesty the Emperor of All the Russias;

Having regard to the terms in which the British Government invited various Powers to meet in conference in order to arrive at an agreement as to what are the generally recognized rules of international law[1] within the meaning of Article VII. of the Convention of 18th October 1907, relative to the establishment of an International Prize Court;

Recognizing all the advantages which an agreement as to the said rules would, in the unfortunate event of a naval war, present, both as regards peaceful commerce, and as regards the belligerents and their diplomatic relations with neutral Governments;

Having regard to the divergence often found in the methods by which it is sought to apply in practice the general principles of international law;

Animated by the desire to ensure henceforward a greater measure of uniformity in this respect;

Hoping that a work so important to the common welfare will meet with general approval;

Have appointed as their Plenipotentiaries, that is to say:

Sa Majesté l'Empereur d'Allemagne, Roi de Prusse:

M. Kriege, Conseiller Actuel Intime de Légation et Jurisconsulte au Département des Affaires Etrangères, Membre de la Cour Permanente d'Arbitrage.

Le Président des États-Unis d'Amérique:

M. Charles H. Stockton, Contre-Amiral en retraite.

M. George Grafton Wilson, Professeur à l'Université de Brown et Conférencier en Droit International à l'École Navale de Guerre et à l'Université de Harvard.

Sa Majesté l'Empereur d'Autriche, Roi de Bohême, &c., et Roi Apostolique de Hongrie:

Son Excellence M. Constantin Théodore Dumba, Conseiller Intime de Sa Majesté Impériale et Royale Apostolique, Envoyé Extraordinaire et Ministre Plénipotentiaire.

[1] The Declaration was signed in the French language only.

Sa Majesté le Roi d'Espagne :

M. Gabriel Maura y Gamazo, Comte de la Mortera, Député au Parlement.

Le Président de la République Française :

M. Louis Renault, Professeur à la Faculté de Droit de Paris, Ministre Plénipotentiaire Honoraire, Jurisconsulte du Ministère des Affaires Étrangères, Membre de l'Institut de France, Membre de la Cour Permanente d'Arbitrage.

Sa Majesté le Roi du Royaume-Uni de Grande-Bretagne et d'Irlande et des Territoires Britanniques au delà des Mers, Empereur des Indes :

M. le Comte de Desart, K.C.B., Procureur-Général du Roi.

Sa Majesté le Roi d'Italie :

M. Guido Fusinato, Conseiller d'État, Député au Parlement, ancien Ministre de l'Instruction Publique, Membre de la Cour Permanente d'Arbitrage.

Sa Majesté l'Empereur du Japon :

M. le Baron Toshiatsu Sakamoto, Vice-Amiral, Chef du Département de l'Education Navale.

M. Enjiro Yamaza, Conseiller de l'Ambassade Impériale à Londres.

Sa Majesté la Reine des Pays-Bas :

Son Excellence M. le Jonkheer J. A. Roëll, Aide-de-Camp de Sa Majesté la Reine en Service Extraordinaire, Vice-Amiral en retraite, ancien Ministre de la Marine.

M. le Jonkheer L. H. Ruyssenaers, Envoyé Extraordinaire et Ministre Plénipotentiaire, ancien Secrétaire-Général de la Cour Permanente d'Arbitrage.

Sa Majesté l'Empereur de Toutes les Russies :

M. le Baron Taube, Docteur en Droit, Conseiller au Ministère Impérial des Affaires Étrangères, Professeur de Droit International à l'Université de Saint-Pétersbourg.

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de faire la présente Déclaration :

Disposition préliminaire.

Les Puissances Signataires sont d'accord pour constater que les règles contenues dans les Chapitres suivants répondent, en substance, aux principes généralement reconnus du droit international.

CHAPITRE PREMIER.—DU BLOCUS EN TEMPS DE GUERRE.

ARTICLE I.

Le blocus doit être limité aux ports et aux côtes de l'ennemi ou occupés par lui.

ARTICLE II.

Conformément à la Déclaration de Paris de 1856, le blocus, pour être obligatoire, doit être effectif, c'est-à-dire maintenu par une force suffisante pour interdire réellement l'accès du littoral ennemi.

ARTICLE III.

La question de savoir si le blocus est effectif est une question de fait.

Who, after having communicated their full powers, found to be in good and due form, have agreed to make the present Declaration :

Preliminary Provision.

The Signatory Powers are agreed that the rules contained in the following Chapters correspond in substance with the generally recognized principles of international law.

CHAPTER I.—BLOCKADE IN TIME OF WAR.

ARTICLE I.

A blockade must not extend beyond the ports and coasts belonging to or occupied by the enemy.[1]

ARTICLE II.

In accordance with the Declaration of Paris of 1856, a blockade, in order to be binding, must be effective—that is to say, it must be maintained by a force sufficient really to prevent access to the enemy coastline.[2]

ARTICLE III.

The question whether a blockade is effective is a question of fact.[3]

OFFICIAL EXPLANATORY REPORT.

CHAPTER I.

Blockade in Time of War.

Blockade is here regarded solely as an operation of war, and there is no intention of touching in any way on what is called *pacific blockade.*

[1] Blockade, as an operation of war, can be directed by a belligerent only against his adversary. This very simple rule is laid down at the start, but its full scope is apparent only when it is read in connection with Article XVIII.

[2] The first condition necessary to render a blockade binding is that it should be effective. There has been universal agreement on this subject for a long time. As for the definition of an effective blockade, we thought that we had only to adopt the one to be found in the Declaration of Paris of the 16th April 1856, which, conventionally, binds a great number of States, and is in fact accepted by the rest.

[3] It is easily to be understood that difficulties often arise on the question whether a blockade is effective or not; opposing interests are at stake. The blockading belligerent wishes to economize his efforts, and neutrals desire their trade to be as little hampered as possible. Diplomatic protests have sometimes been made on this subject. The point may be a delicate one, because no absolute rule can be laid down as to the number and position of the blockading ships. All depends on matters of fact and geographical conditions. In one case a single ship will suffice to blockade a port as effectively as possible, whereas in another a whole fleet may not be enough really to prevent access to one or more ports declared to be blockaded. It is therefore essentially a *question of fact*, to be decided on the merits of each case, and not according to a formula drawn up beforehand. Who shall decide it? The judicial authority. This will be, in the first place, the national tribunal which is called on to pronounce as to the validity of the prize and which the vessel captured for breach of blockade can ask to declare the capture void, because the blockade, not being effective, was not binding. This resort has always existed; it may not always have given satisfaction to the Powers concerned, because they may have thought that the national tribunal was rather naturally led to consider effective the blockade declared to be o by its Government. But, when the International Prize Court Convention comes into force, there will be an absolutely impartial tribunal, to which neutrals may apply, and which will decide whether, in a given case, the blockade was effective or not. The possibility of this resort, besides allowing certain injustices to be redressed, will most likely have a preventive effect, in that a Government will take care to establish its blockades in such a way that their effect cannot be annulled by decisions which would inflict on it a heavy loss. The full scope of Article III. is thus seen when it is understood that the question with which it deals must be settled by a Court. The foregoing explanation is inserted in the Report at the request of the Committee, in order to remove all possibility of misunderstanding.

ARTICLE IV.

Le blocus n'est pas considéré comme levé si, par suite du mauvais temps, les forces bloquantes se sont momentanément éloignées.

ARTICLE V.

Le blocus doit être impartialement appliqué aux divers pavillons.

ARTICLE VI.

Le commandant de la force bloquante peut accorder à des navires de guerre la permission d'entrer dans le port bloqué et d'en sortir ultérieurement.

ARTICLE VII.

Un navire neutre, en cas de détresse constatée par une autorité des forces bloquantes, peut pénétrer dans la localité bloquée et en sortir ultérieurement à la condition de n'y avoir laissé ni pris aucun chargement.

ARTICLE VIII.

Le blocus, pour être obligatoire, doit être déclaré conformément à l'Article IX. et notifié conformément aux Articles XI. et XVI.

ARTICLE IX.

La déclaration de blocus est faite, soit par la Puissance bloquante, soit par les autorités navales agissant en son nom.

Elle précise :

1°. La date du commencement du blocus ;

2°. Les limites géographiques du littoral bloqué ;

3°. Le délai de sortie à accorder aux navires neutres.

ARTICLE X.

Si la Puissance bloquante ou les autorités navales agissant en son nom ne se conforment pas aux mentions, qu'en exécution de l'Article IX.—1° et 2°, elles ont dû inscrire dans la déclaration de blocus, cette déclaration est nulle, et une nouvelle déclaration est nécessaire pour que le blocus produise ses effets.

ARTICLE IV.

A blockade is not regarded as raised if the blockading force is temporarily withdrawn on account of stress of weather.[4]

ARTICLE V.

A blockade must be applied impartially to the ships of all nations.[5]

ARTICLE VI.

The commander of a blockading force may give permission to a warship to enter, and subsequently to leave, a blockaded port.[6]

ARTICLE VII.

In circumstances of distress, acknowledged by an officer of the blockading force, a neutral vessel may enter a place under blockade and subsequently leave it, provided that she has neither discharged nor shipped any cargo there.[7]

ARTICLE VIII.

A blockade, in order to be binding, must be declared in accordance with Article IX., and notified in accordance with Articles XI. and XVI.[8]

ARTICLE IX.

A declaration of blockade is made either by the blockading Power or by the naval authorities acting in its name.

It specifies :

1. The date when the blockade begins ;
2. The geographical limits of the coastline under blockade ;
3. The period within which neutral vessels may come out.[9]

ARTICLE X.

If the operations of the blockading Power, or of the naval authorities acting in its name, do not tally with the particulars, which, in accordance with Article IX. (1) and (2), must be inserted in the declaration of blockade, the declaration is void, and a new declaration is necessary in order to make the blockade operative.[10]

[4] It is not enough for a blockade to be established: it must be maintained. If it is raised it may be re-established, but this requires the observance of the same formalities as though it were established for the first time. By tradition, a blockade is not regarded as raised when it is in consequence of stress of weather that the blockading forces are temporarily withdrawn. This is laid down in Article IV. It must be considered limitative in the sense that stress of weather is the only form of compulsion which can be alleged. If the blockading forces were withdrawn for any other reason, the blockade would be regarded as raised, and, if it were assumed, Articles XII. (last rule) and XIII. would apply.

[5] Blockade, as an operation of lawful warfare, must be respected by neutrals in so far as it really remains an operation of war which has the object of interrupting all commercial relations with the blockaded port. It may not be made the means of allowing a belligerent to favour the vessels of certain nations by letting them pass. This is the point of Article V.

[6] Does the prohibition which applies to all merchant vessels apply also to warships? No definite reply can be given. The commander of the blockading forces may think it useful to cut off all communication with the blockaded place, and refuse access to neutral warships; no rule is imposed on him. If he lets them in, it is as a matter of courtesy. If a rule has been drawn up merely to lay down this, it is in order that it may not be claimed that a blockade has ceased to be effective on account of leave granted to such and such neutral warships.

The blockading commander must act impartially, as stated in Article V. Nevertheless, the mere fact that he has let a warship pass does not oblige him to let pass all neutral warships which may come. It is a question of judgment. The presence of a neutral warship in a blockaded port may not have the same consequences at all stages of the blockade, and the commander must be left free to judge whether he can be courteous without making any sacrifice of his military interests.

[7] Distress can explain the entrance of a neutral vessel into a blockaded place, for instance, if she is in want of food or water, or needs immediate repairs. As soon as her distress is acknowledged by an authority of the blockading force, she *may* cross the line of blockade; it is not a favour which she has to ask of the humanity or courtesy of the blockading authority. The latter may deny the state of distress, but when once it is proved to exist, the consequence follows of itself. The vessel which has thus entered the blockaded port will not be obliged to remain there for the whole duration of the blockade; she may leave as soon as she is fit to do so, when she has obtained the food or water which she needs, or when she has been repaired. But the leave granted to her must not be made an excuse for commercial transactions; therefore she is forbidden to discharge or ship any cargo.

It is needless to say that a blockading squadron which insisted on preventing a vessel in distress from passing, might do so if she afforded her the help which she needed.

[8] Independently of the condition prescribed by the Declaration of Paris that it must be effective, a blockade, to be binding, must be *declared* and *notified*. Article VIII. confines itself to laying down the principle which is applied by the following Articles.

To remove all possibility of misunderstanding, it is enough to define clearly the meaning of these two expressions, which will frequently be used. The *declaration of blockade* is the act of the competent authority (a Government or commander of a squadron) stating that a blockade is, or is about to be, established under conditions to be specified (Article IX.). The *notification* is the fact of bringing the declaration of blockade to the knowledge of the neutral Powers or of certain authorities (Article XI.).

These two things—declaration and notification—will in most cases be done previously to the enforcement of the rules of blockade, that is to say, to the real prohibition of passage. Nevertheless, as we shall see later, it is sometimes possible for passage to be forbidden by the very fact of the blockade which is brought to the knowledge of a vessel approaching a blockaded port by means of a *notification* which is *special*, whereas the notification which has just been defined, and which is spoken of in Article XI., is of a general character.

[9] The declaration of blockade in most cases emanates from the belligerent Government itself. That Government may have left the commander of its naval forces free himself to declare a blockade according to the circumstances. There will not, perhaps, be as much reason as formerly to give this discretion, because of the ease and rapidity of communication. This, being merely an internal question, matters little.

The declaration of blockade must specify certain points which it is in the interests of neutrals to know, in order to be aware of the extent of their obligations. The moment from which it is forbidden to communicate with the blockaded place must be exactly known. It is important, as affecting the obligations both of the blockading Power and of neutrals, that there should be no uncertainty as to the places really blockaded. Finally, the custom has long been established of allowing neutral vessels which are in the blockaded port to leave it. This custom is here confirmed, in the sense that the blockading Power *must allow* a period within which vessels may leave; the length of this period is not fixed, because it clearly depends on very varying circumstances, but it is understood that the period should be *reasonable*.

[10] The object of this Article is to ensure the observance of Article IX. Supposing the declaration of blockade contains statements which do not tally with the actual facts; it states that the blockade began, or will begin, on such a day, whereas, in fact, it only began several days later. Its geographical limits are inaccurately given; they are wider than those within which the blockading forces are operating. What shall be the sanction? The nullity of the declaration of blockade, which prevents it from being operative. If then, in such a case, a neutral vessel is captured for breach of blockade, she can refer to the nullity of the declaration of blockade as a plea for the nullity of the capture; if her plea is rejected by the national tribunal, she can appeal to the International Court.

To avoid misunderstandings, the significance of this provision must be noticed. The declaration states that the blockade begins on the 1st February, it really only begins on the 8th. It is needless to say that the declaration had no effect from the 1st to the 8th, because at that time there was no blockade at all; the declaration states a fact, but does not take the place of one. The rule goes further: the declaration shall not even be operative from the 8th onwards; it is definitely void, and another must be made.

There is no question here of cases where Article IX. is disregarded by neglect to allow neutral vessels in the blockaded port time to leave it. The sanction could not be the same. There is no reason to annul the declaration as regards neutral vessels wishing to enter the blockaded port. A special sanction is needed in that case, and it is provided by Article XVI., paragraph 2.

ARTICLE XI.

La déclaration de blocus est notifiée :

1°. Aux Puissances neutres, par la Puissance bloquante, au moyen d'une communication adressée aux Gouvernements eux-mêmes ou à leurs représentants accrédités auprès d'elle ;

2°. Aux autorités locales, par le commandant de la force bloquante. Ces autorités, de leur côté, en informeront, aussitôt que possible, les consuls étrangers qui exercent leurs fonctions dans le port ou sur le littoral bloqués.

ARTICLE XII.

Les règles relatives à la déclaration et à la notification de blocus sont applicables dans le cas où le blocus serait étendu ou viendrait à être repris après avoir été levé.

ARTICLE XIII.

La levée volontaire du blocus, ainsi que toute restriction qui y serait apportée, doit être notifiée dans la forme prescrite par l'Article XI.

ARTICLE XIV.

La saisissabilité d'un navire neutre pour violation de blocus est subordonnée à la connaissance réelle ou présumée du blocus.

ARTICLE XV.

La connaissance du blocus est, sauf preuve contraire, présumée, lorsque le navire a quitté un port neutre postérieurement à la notification, en temps utile, du blocus à la Puissance dont relève ce port.

ARTICLE XVI.

Si le navire qui approche du port bloqué n'a pas connu ou ne peut être présumé avoir connu l'existence du blocus, la notification doit être faite au navire même par un officier de l'un des bâtiments de la force bloquante. Cette notification doit être portée sur le livre de bord avec indication de la date et de l'heure, ainsi que de la position géographique du navire à ce moment.

Le navire neutre qui sort du port bloqué, alors que, par la négligence du commandant de la force bloquante, aucune déclaration de blocus n'a été notifiée aux autorités locales ou qu'un délai n'a pas été indiqué dans la déclaration notifiée, doit être laissé libre de passer.

ARTICLE XI.

A declaration of blockade is notified :

1. To neutral Powers, by the blockading Power by means of a communication addressed to the Governments direct, or to their representatives accredited to it ;

2. To the local authorities, by the officer commanding the blockading force. The local authorities will, in turn, inform the foreign consular officers at the port or on the coastline under blockade as soon as possible.[11]

ARTICLE XII.

The rules as to declaration and notification of blockade apply to cases where the limits of a blockade are extended, or where a blockade is re-established after having been raised.[12]

ARTICLE XIII.

The voluntary raising of a blockade, as also any restriction in the limits of a blockade, must be notified in the manner prescribed by Article XI.[13]

ARTICLE XIV.

The liability of a neutral vessel to capture for breach of blockade is contingent on her knowledge, actual or presumptive, of the blockade.[14]

ARTICLE XV.

Failing proof to the contrary, knowledge of the blockade is presumed if the vessel left a neutral port subsequently to the notification of the blockade to the Power to which such port belongs, provided that such notification was made in sufficient time.[15]

ARTICLE XVI.

If a vessel approaching a blockaded port has no knowledge, actual or presumptive, of the blockade, the notification must be made to the vessel itself by an officer of one of the ships of the blockading force. This notification should be entered in the vessel's logbook, and must state the day and hour, and the geographical position of the vessel at the time.

If through the negligence of the officer commanding the blockading force no declaration of blockade has been notified to the local authorities, or, if in the declaration, as notified, no period has been mentioned within which neutral vessels may come out, a neutral vessel coming out of the blockaded port must be allowed to pass free.[16]

[11] A declaration of blockade is not valid unless notified. The observance of a rule can only be required by those who have the opportunity of knowing it. Two notifications must be made:

1. The first is addressed to neutral Powers by the belligerent Power, which communicates it to the Governments themselves or to their representatives accredited to it. The communication to the Governments will in most cases be made through the diplomatic agents; it might happen that a belligerent had no diplomatic relations with a neutral country; he will then address himself, ordinarily by telegraph, directly to the Government of that country. It is the duty of the neutral Governments advised of the declaration of blockade to take the necessary measures to dispatch the news to the different parts of their territory, especially their ports.
2. The second notification is made by the commander of the blockading force to the local authorities. These must inform, as soon as possible, the foreign Consuls residing at the blockaded place or on the blockaded coastline. Those authorities would be responsible for the neglect of this obligation. Neutrals might suffer loss from the fact of not having been informed of the blockade in sufficient time.

[12] Supposing a blockade is extended beyond its original limits: as regards the new part, it is a new blockade, and, in consequence, the rules as to declaration and notification must be applied to it. The same is true in cases where a blockade is re-established after having been raised; the fact that a blockade has already existed in the same locality must not be taken into account.

[13] If it is indispensable to know of the establishment of a blockade, it would at least be useful for the public to be told of its raising, since it puts an end to the restrictions imposed on the relations of neutrals with the blockaded port. It has therefore been thought fit to ask the Power which raises a blockade to make known the fact in the form in which it has notified the establishment of the blockade (Article XI.). Only it must be observed that the sanction could not be the same in the two cases. To ensure the notification of the declaration of blockade there is a direct and adequate sanction: an unnotified blockade is not binding. In the case of the raising there can be no parallel to this. The public will really gain by the raising, even without being told of it officially. The blockading Power which did not notify the raising would expose itself to diplomatic remonstrances on the ground of the non-fulfilment of an international duty. This non-fulfilment will have more or less serious consequences, according to circumstances. Sometimes the raising of the blockade will really have become known at once, and official notification would add nothing to this effective publicity.

It is needless to add that only the *voluntary* raising of a blockade is here in question; if the blockading force has been driven off by the arrival of enemy forces, it cannot be held bound to make known its defeat, which its adversary will undertake to do without delay. Instead of raising a blockade, a belligerent may confine himself to restricting it; he only blockades one port instead of two. As regards the port which ceases to be included in the blockade, it is a case of voluntary raising, and consequently the same rule applies.

[14] For a vessel to be liable to capture for breach of blockade, the first condition is that she must be aware of the blockade, because it is not just to punish some one for breaking a rule which he does not know. Nevertheless, there are circumstances in which, even in the absence of proof of actual knowledge, knowledge may be presumed, the right of rebutting this presumption being always reserved to the party concerned (Article XV.).

[15] A vessel has left a neutral port subsequently to the notification of the blockade made to the Powers to which the port belongs. Was this notification made in sufficient time, that is to say, so as to reach the port in question, where it had to be published by the port authorities? That is a question of fact to be examined. If it is settled affirmatively, it is natural to suppose that the vessel was aware of the blockade at the time of her departure. This presumption is not, however, absolute, and the right to adduce proof to the contrary is reserved. It is for the incriminated vessel to furnish it, by showing that circumstances existed which explain her ignorance.

[16] A vessel is supposed to be approaching a blockaded port without its being possible to tell whether she knows or is presumed to know of the existence of the blockade; no notification in the sense of Article XI. has reached her. In that case a special notification is necessary in order that the vessel may be duly informed of the fact of the blockade. This notification is made to the vessel herself by an officer of one of the warships of the blockading force, and is entered on the vessel's logbook. It may be made to the vessels of a convoyed fleet by a neutral warship through the commander of the convoy, who acknowledges receipt of it and takes the necessary measures to have the notification entered on the logbook of each vessel. The entry notes the time and place where it is made, and the names of the blockaded places. The vessel is prevented from passing, and the blockade is thus made *binding* for her, though not *previously* notified; this adverb is therefore omitted in Article VIII. It cannot be admitted that a merchant vessel should claim to disregard a real blockade, and to break it for the sole reason that she was not personally aware of it. But, though she may be prevented from passing, she may only be captured when she tries to break blockade after receiving the notification. This special notification is seen to play a very small part, and must not be confused with the special notification absolutely insisted on by the practice of certain navies.

What has just been said refers to the vessel coming in. The vessel leaving the blockaded port must also be considered. If a regular notification of the blockade has been made to the local authorities (Article XI. (2)), the position is simple: the vessel is, or is presumed to be, aware of the blockade, and is therefore liable to capture in case she has not kept to the period for leaving allowed by the blockading Power. But it may happen that no declaration of blockade has been notified to the local authorities, or that that declaration has contained no mention of the period allowed for leaving, in spite of the rule prescribed by Article IX. (3). The sanction of the blockading Power's offence is that the vessel must be allowed to go free. It is a strong sanction, which corresponds exactly with the nature of the offence committed, and will be the best means of preventing its commission.

It is needless to say that this provision only concerns vessels to which the period allowed for leaving would have been of use—that is to say, neutral vessels which were in the port at the time when the blockade was established; it has nothing to do with vessels which are in the port after having broken blockade.

The commander of the blockading squadron may always repair his omission or mistake, make a notification of the blockade to the local authorities, or complete that which he has already made.

As is seen from these explanations, the most ordinary case is assumed—that in which the absence of notification implies negligence on the part of the commander of the blockading forces. The situation is clearly altogether changed if the commander has done all in his power to make the notification, but has been prevented from doing so by lack of good-will on the part of the local authorities, who have intercepted all communications from outside. In that case he cannot be forced to let pass vessels which wish to leave, and which, in the absence of the prescribed notification and of presumptive knowledge of the blockade, are in a position similar to that contemplated in Article XVI., paragraph 1.

ARTICLE XVII.

La saisie des navires neutres pour violation de blocus ne peut être effectuée que dans le rayon d'action des bâtiments de guerre chargés d'assurer l'effectivité du blocus.

ARTICLE XVIII.

Les forces bloquantes ne doivent pas barrer l'accès aux ports et aux côtes neutres.

ARTICLE XIX.

La violation du blocus est insuffisamment caractérisée pour autoriser la saisie du navire, lorsque celui-ci est actuellement dirigé vers un port non bloque, quelle que soit la destination ultérieure du navire ou de son chargement.

ARTICLE XX.

Le navire qui, en violation du blocus, est sorti du port bloqué ou a tenté d'y entrer, reste saisissable tant qu'il est poursuivi par un bâtiment de la force bloquante. Si la chasse en est abandonnée ou si le blocus est levé, la saisie n'en peut plus être pratiquée.

ARTICLE XXI.

Le navire reconnu coupable de violation de blocus est confisqué. Le chargement est également confisqué, à moins qu'il soit prouvé qu'au moment où la marchandise a été embarquée, le chargeur n'a ni connu ni pu connaître l'intention de violer le blocus.

CHAPITRE II.—DE LA CONTREBANDE DE GUERRE.

ARTICLE XXII.

Sont de plein droit considérés comme contrebande de guerre les objets et matériaux suivants, compris sous le nom de contrebande absolue, savoir :

1°. Les armes de toute nature, y compris les armes de chasse, et les pièces détachées caractérisées.
2°. Les projectiles, gargousses et cartouches de toute nature, et les pièces détachées caractérisées.
3°. Les poudres et les explosifs spécialement affectés à la guerre.
4°. Les affûts, caissons, avant-trains, fourgons, forges de campagne, et les pièces détachées caractérisées.
5°. Les effets d'habillement et d'équipement militaires caractérisés.

ARTICLE XVII.

Neutral vessels may not be captured for breach of blockade except within the area of operations of the warships detailed to render the blockade effective.[17]

ARTICLE XVIII.

The blockading forces must not bar access to neutral ports or coasts.[18]

ARTICLE XIX.

Whatever may be the ulterior destination of a vessel or of her cargo, she cannot be captured for breach of blockade if, at the moment, she is on her way to a non-blockaded port.[19]

ARTICLE XX.

A vessel which has broken blockade outwards, or which has attempted to break blockade inwards, is liable to capture so long as she is pursued by a ship of the blockading force. If the pursuit is abandoned, or if the blockade is raised, her capture can no longer be effected.[20]

ARTICLE XXI.

A vessel found guilty of breach of blockade is liable to condemnation. The cargo is also condemned, unless it is proved that at the time of the shipment of the goods the shipper neither knew nor could have known of the intention to break the blockade.[21]

CHAPTER II.—CONTRABAND OF WAR.

ARTICLE XXII.

The following articles may, without notice,[1] be treated as contraband of war, under the name of absolute contraband :

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
3. Powder and explosives specially prepared for use in war.
4. Gun-mountings, limber boxes, limbers, military waggons, field forges, and their distinctive component parts.
5. Clothing and equipment of a distinctively military character.

[1] In view of the difficulty of finding an exact equivalent in English for the expression *de plein droit*, I translate it by the words "without notice," which represent the meaning attached to it by the draftsman as appears from the Report.

[17] The other condition of the liability of a vessel to capture is that she should be found within the area of operations of the warships detailed to make the blockade effective; it is not enough that she should be on her way to the blockaded port.

As for what constitutes the *area of operations*, an explanation has been given which has been universally accepted, and is quoted here as furnishing the best commentary on the rule laid down by Article XVII.:

"When a Government decides to undertake blockading operations against some part of the enemy coast it details a certain number of warships to take part in the blockade, and intrusts the command to an officer whose duty is to use them for the purpose of making the blockade effective. The commander of the naval force thus formed posts the ships at his disposal according to the line of the coast and the geographical position of the blockaded places, and instructs each ship as to the part which she has to play, and especially as to the zone which she is to watch. All the zones watched taken together, and so organized as to make the blockade effective, form the area of operations of the blockading naval force.

"The area of operations so constituted is intimately connected with the effectiveness of the blockade, and also with the number of ships employed on it.

"Cases may occur in which a single ship will be enough to keep a blockade effective,—for instance, at the entrance of a port, or at the mouth of a river with a small estuary, so long as circumstances allow the blockading ship to stay near enough to the entrance. In that case the area of operations is itself near the coast. But, on the other hand, if circumstances force her to remain far off, one ship may not be enough to secure effectiveness, and to maintain this she will then have to be supported by others. From this cause the area of operations becomes wider, and extends further from the coast. It may therefore vary with circumstances, and with the number of blockading ships, but it will always be limited by the condition that effectiveness must be assured.

"It does not seem possible to fix the limits of the area of operations in definite figures, any more than to fix beforehand and definitely the number of ships necessary to assure the effectiveness of any blockade. These points must be settled according to circumstances in each particular case of a blockade. This might perhaps be done at the time of making the declaration.

"It is clear that a blockade will not be established in the same way on a defenceless coast as on one possessing all modern means of defence. In the latter case there could be no question of enforcing a rule such as that which formerly required that ships should be stationary and sufficiently close to the blockaded places; the position would be too dangerous for the ships of the blockading force which, besides, now possess more powerful means of watching effectively a much wider zone than formerly.

"The area of operations of a blockading naval force may be rather wide, but as it depends on the number of ships contributing to the effectiveness of the blockade, and is always limited by the condition that it should be effective, it will never reach distant seas where merchant vessels sail which are, perhaps, making for the blockaded ports, but whose destination is contingent on the changes which circumstances may produce in the blockade during their voyage. To sum up, the idea of the area of operations joined with that of effectiveness, as we have tried to define it, that is to say, including the zone of operations of the blockading forces, allows the belligerent effectively to exercise the right of blockade which he admittedly possesses and, on the other hand, saves neutrals from exposure to the drawbacks of blockade at a great distance, while it leaves them free to run the risk which they knowingly incur by approaching points to which access is forbidden by the belligerent."

[18] This rule has been thought necessary the better to protect the commercial interests of neutral countries; it completes Article I., according to which a blockade must not extend beyond the ports and coasts of the enemy, which implies that, as it is an operation of war, it must not be directed against a neutral port, in spite of the importance to a belligerent of the part played by that neutral port in supplying his adversary.

[19] It is the true destination of the vessel which must be considered when a breach of blockade is in question, and not the ulterior destination of the cargo. Proof or presumption of the latter is therefore not enough to justify the capture, for breach of blockade, of a ship actually bound for an unblockaded port. But the cruiser might always prove that this destination to an unblockaded port is only apparent, and that in reality the immediate destination of the vessel is the blockaded port.

[20] A vessel has left the blockaded port or tried to enter it. Shall she remain indefinitely liable to capture? To reply by an absolute affirmative would be to go too far. This vessel must remain liable to capture so long as she is pursued by a ship of the blockading force; it would not be enough for her to be encountered by a cruiser of the blockading enemy which did not belong to the blockading squadron. The question whether or not the pursuit is abandoned is one of fact; it is not enough that the vessel should take refuge in a neutral port. The ship which is pursuing her can wait till she leaves it, so that the pursuit is necessarily suspended, but not abandoned. Capture is no longer possible when the blockade has been raised.

[21] The vessel is condemned in all cases. The cargo is also condemned on principle, but the interested party is allowed to oppose a plea of good faith, that is to say, to prove that, when the goods were shipped, the shipper did not know and could not have known of the intention to break the blockade.

CHAPTER II.

Contraband of War.

This chapter is one of the most, if not the most, important of the Declaration. It deals with a matter which has sometimes given rise to serious disputes between belligerents and neutrals. Therefore regulations to establish exactly the rights and duties of each have often been urgently called for. Peaceful trade may be grateful for the precision with which a subject of the highest importance to its interests is now for the first time treated.

The notion of contraband of war connotes two elements: it concerns objects of a certain kind and with a certain destination. Cannons, for instance, are carried in a neutral vessel. Are they contraband? That depends: if they are destined for a neutral Government,—no; if they are destined for an enemy Government,—yes. The trade in certain articles is by no means generally forbidden during war; it is the trade with the enemy in these articles which is illicit, and against which the belligerent to whose detriment it is carried on may protect himself by the measures allowed by international law.

Articles XXII. and XXIV. enumerate the articles which may be contraband of war, and which are so in fact when they have a certain destination laid down in Articles XXX. and XXXIII. The traditional distinction between *absolute* and *conditional* contraband is maintained: Articles XXII. and XXX. refer to the former, and Articles XXIV. and XXXIII. to the latter.

6°. Les harnachements militaires caractérisés de toute nature.

7°. Les animaux de selle, de trait et de bât, utilisables pour la guerre.

8°. Le matériel de campement et les pièces détachées caractérisées.

9°. Les plaques de blindage.

10°. Les bâtiments et embarcations de guerre et les pièces détachées spécialement caractérisées comme ne pouvant être utilisées que sur un navire de guerre.

11°. Les instruments et appareils exclusivement faits pour la fabrication des munitions de guerre, pour la fabrication et la réparation des armes et du matériel militaire, terrestre ou naval.

ARTICLE XXIII.

Les objets et matériaux qui sont exclusivement employés à la guerre peuvent être ajoutés à la liste de contrebande absolue au moyen d'une déclaration notifiée.

La notification est adressée aux Gouvernements des autres Puissances ou à leurs représentants accrédités auprès de la Puissance qui fait la déclaration. La notification faite après l'ouverture des hostilités n'est adressée qu'aux Puissances neutres.

ARTICLE XXIV.

Sont de plein droit considérés comme contrebande de guerre les objets et matériaux susceptibles de servir aux usages de la guerre comme à des usages pacifiques, et compris sous le nom de contrebande conditionnelle, savoir:

1°. Les vivres.

2°. Les fourrages et les graines propres à la nourriture des animaux.

3°. Les vêtements et les tissus d'habillement, les chaussures, propres à des usages militaires.

4°. L'or et l'argent monnayés et en lingots, les papiers représentatifs de la monnaie.

5°. Les véhicules de toute nature pouvant servir à la guerre, ainsi que les pièces détachées.

6°. Les navires, bateaux et embarcations de tout genre, les docks flottants, parties de bassins, ainsi que les pièces détachées.

7°. Le matériel fixe ou roulant des chemins de fer, le matériel des télégraphes, radiotélégraphes et téléphones.

6. All kinds of harness of a distinctively military character.

7. Saddle, draught, and pack animals suitable for use in war.

8. Articles of camp equipment, and their distinctive component parts.

9. Armour plates.

10. Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.

11. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.[22]

ARTICLE XXIII.

Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other Powers, or to their representatives accredited to the Power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral Powers.[23]

ARTICLE XXIV.

The following articles, susceptible of use in war as well as for purposes of peace, may, without notice,[1] be treated as contraband of war, under the name of conditional contraband:

1. Foodstuffs.

2. Forage and grain, suitable for feeding animals.

3. Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.

4. Gold and silver in coin or bullion; paper money.

5. Vehicles of all kinds available for use in war, and their component parts.

6. Vessels, craft, and boats of all kinds; floating docks, parts of docks and their component parts.

7. Railway material, both fixed and rolling-stock, and material for telegraphs, wireless telegraphs, and telephones.

[1] See note on Article XXII.

[22] This list is that drawn up at the Second Peace Conference by the committee charged with the special study of the question of contraband. It was the result of mutual concessions, and it has not seemed wise to reopen discussion on this subject for the purpose either of cutting out or of adding articles.

The words *de plein droit* (without notice) imply that the provision becomes operative by the mere fact of the war, and that no declaration by the belligerents is necessary. Trade is already warned in time of peace.

[23] Certain discoveries or inventions might make the list in Article XXII. insufficient. An addition may be made to it on condition that it concerns articles *exclusively used for war*. This addition must be notified to the other Powers, which will take the necessary measures to inform their subjects of it. In theory the notification may be made in time of peace or of war. The former case will doubtless rarely occur, because a State which made such a notification might be suspected of meditating a war; it would, nevertheless, have the advantage of informing trade beforehand. There was no reason for making it impossible.

The right given to a Power to make an addition to the list by a mere declaration has been thought too wide. It should be noticed that this right does not involve the dangers supposed. In the first place it is understood that the declaration is only operative for the Power which makes it, in the sense that the article added will only be contraband for it, as a belligerent; other States may, of course, also make a similar declaration. The addition may only refer to articles *exclusively used for war*; at present, it would be hard to mention any such articles which are not included in the list. The future is left free. If a Power claimed to add to the list of absolute contraband articles not exclusively used for war, it might expose itself to diplomatic remonstrances, because it would be disregarding an accepted rule. Besides, there would be an eventual resort to the International Prize Court. Suppose that the Court holds that the article mentioned in the declaration of absolute contraband is wrongly placed there because it is not exclusively used for war, but that it might have been included in a declaration of conditional contraband. Confiscation may then be justified if the capture was made in the conditions laid down for this kind of contraband (Articles XXXIII. to XXXV.) which differ from those enforced for absolute contraband (Article XXX.).

It had been suggested that, in the interest of neutral trade, a period should elapse between the notification and its enforcement. But that would be very damaging to the belligerent, whose object is precisely to protect himself, since, during that period, the trade in articles which he thinks dangerous would be free and the effect of his measure a failure. Account has been taken, in another form, of the considerations of equity which have been adduced (see Article XLIII.).

8°. Les aérostats et les appareils d'aviation, les pièces détachées caractérisées ainsi que les accessoires, objets et matériaux caractérisés comme devant servir à l'aérostation ou à l'aviation.

9°. Les combustibles ; les matières lubréfiantes.

10°. Les poudres et les explosifs qui ne sont pas spécialement affectés à la guerre.

11°. Les fils de fer barbelés, ainsi que les instruments servant à les fixer ou à les couper.

12°. Les fers à cheval et le matériel de maréchalerie.

13°. Les objets de harnachement et de sellerie.

14°. Les jumelles, les télescopes, les chronomètres et les divers instruments nautiques.

ARTICLE XXV.

Les objets et matériaux susceptibles de servir aux usages de la guerre comme à des usages pacifiques, et autres que ceux visés aux Articles XXII. et XXIV., peuvent être ajoutés à la liste de contrebande conditionnelle au moyen d'une déclaration qui sera notifiée de la manière prévue à l'Article XXIII., deuxième alinéa.

ARTICLE XXVI.

Si une Puissance renonce, en ce qui la concerne, à considérer comme contrebande de guerre des objets et matériaux qui rentrent dans une des catégories énumérées aux Articles XXII. et XXIV., elle fera connaître son intention par une déclaration notifiée de la manière prévue à l'Article XXIII., deuxième alinéa.

ARTICLE XXVII.

Les objets et matériaux, qui ne sont pas susceptibles de servir aux usages de la guerre, ne peuvent pas être déclarés contrebande de guerre.

ARTICLE XXVIII.

Ne peuvent pas être déclarés contrebarde de guerre les articles suivants, savoir :

1°. Le coton brut, les laines, soies, jutes, lins, chanvres bruts, et les autres matières premières des industries textiles, ainsi que leurs filés.

2°. Les noix et graines oléagineuses ; le coprah.

3°. Les caoutchoucs, résines, gommes et laques ; le houblon.

4°. Les peaux brutes, les cornes, os et ivoires.

5°. Les engrais naturels et artificiels, y compris les nitrates et phosphates pouvant servir à l'agriculture.

6°. Les minerais.

7°. Les terres, les argiles, la chaux, la craie, les pierres, compris les marbres, les briques, ardoises et tuiles.

8. Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.

9. Fuel ; lubricants.

10. Powder and explosives not specially prepared for use in war.

11. Barbed wire and implements for fixing and cutting the same.

12. Horseshoes and shoeing materials.

13. Harness and saddlery.

14. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.[24]

ARTICLE XXV.

Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in Articles XXII. and XXIV., may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of Article XXIII.[25]

ARTICLE XXVI.

If a Power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in Articles XXII. and XXIV., such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of Article XXIII.[26]

ARTICLE XXVII.

Articles which are not susceptible of use in war may not be declared contraband of war.[27]

ARTICLE XXVIII.

The following may not be declared contraband of war :

1. Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.

2. Oil seeds and nuts ; copra.

3. Rubber, resins, gums, and lacs ; hops.

4. Raw hides and horns, bones, and ivory.

5. Natural and artificial manures, including nitrates and phosphates for agricultural purposes.

6. Metallic ores.

7. Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.

[24] On the expression *de plein droit* (without notice) the same remark must be made as with regard to Article XXII. The articles enumerated are only conditional contraband if they have the destination specified in Article XXX.

Foodstuffs include products necessary or useful for sustaining man, whether solid or liquid.

Paper money only includes inconvertible paper money, *i.e.* banknotes which may or not be legal tender. Bills of exchange and cheques are excluded.

Engines and boilers are included in 6.

Railway material includes fixtures (such as rails, sleepers, turntables, parts of bridges), and rolling stock (such as locomotives, carriages, and trucks).

[25] This provision corresponds, as regards conditional contraband, to that in Article XXIII. as regards absolute contraband.

[26] A belligerent may not wish to use the right to treat as contraband of war all the articles included in the above lists. It may suit him to add to conditional contraband an article included in absolute contraband or to declare free, so far as he is concerned, the trade in some article included in one class or the other. It is desirable that he should make known his intention on this subject, and he will probably do so in order to have the credit of the measure. If he does not do so, but confines himself to giving instructions to his cruisers, the vessels searched will be agreeably surprised if the searcher does not reproach them with carrying what they themselves consider contraband. Nothing can prevent a Power from making such a declaration in time of peace. See what is said as regards Article XXIII.

[27] The existence of a so-called *free* list (Article XXVIII.) makes it useful thus to put on record that articles which cannot be used for the purposes of war may not be declared contraband of war. It might have been thought that articles not included in that list might at least be declared conditional contraband.

8°. Les porcelaines et verreries.
9°. Le papier et les matières préparées pour sa fabrication.
10°. Les savons, couleurs, y compris les matières exclusivement destinées à les produire, et les vernis.
11°. L'hypochlorite de chaux, les cendres de soude, la soude caustique, le sulfate de soude en pains, l'ammoniaque, le sulfate d'ammoniaque et le sulfate de cuivre.
12°. Les machines servant à l'agriculture, aux mines, aux industries textiles et à l'imprimerie.
13°. Les pierres précieuses, les pierres fines, les perles, la nacre et les coraux.
14°. Les horloges, pendules, et montres autres que les chronomètres.
15°. Les articles de mode et les objets de fantaisie.
16°. Les plumes de tout genre, les crins et soies.
17°. Les objets d'ameublement ou d'ornement; les meubles et accessoires de bureau.

ARTICLE XXIX.

Ne peuvent non plus être considérés comme contrebande de guerre :

1°. Les objets et matériaux servant exclusivement à soigner les malades et les blessés. Toutefois, ils peuvent, en cas de nécessité militaire importante, être réquisitionnés, moyennant une indemnité, lorsqu'ils ont la destination prévue à l'Article XXX.
2°. Les objets et matériaux desinés à l'usage du navire où ils sont trouvés, ainsi qu'à l'usage de l'équipage et des passagers de ce navire pendant la traversée.

ARTICLE XXX.

Les articles de contrebande absolue sont saisissables, s'il est établi qu'ils sont destinés au territoire de l'ennemi ou à un territoire occupé par lui ou à ses forces armées. Peu importe que le transport de ces objets se fasse directement ou exige, soit un transbordement, soit un trajet par terre.

ARTICLE XXXI.

La destination prévue à l'Article XXX. est définitivement prouvée dans les cas suivants :

1°. Lorsque la marchandise est documentée pour être débarquée dans un port de l'ennemi ou pour être livrée à ses forces armées.
2°. Lorsque le navire ne doit aborder qu'à des ports ennemis, ou lorsqu'il doit toucher à un port de l'ennemi ou rejoindre ses forces armées, avant d'arriver au port neutre pour lequel la marchandise est documentée,

8. Chinaware and glass.
9. Paper and paper-making materials.
10. Soap, paint and colours, including articles exclusively used in their manufacture, and varnish.
11. Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
12. Agricultural, mining, textile, and printing machinery.
13. Precious and semi-precious stones, pearls, mother-of-pearl, and coral.
14. Clocks and watches, other than chronometers.
15. Fashion and fancy goods.
16. Feathers of all kinds, hairs, and bristles.
17. Articles of household furniture and decoration; office furniture and requisites.[28]

ARTICLE XXIX.

Likewise the following may not be treated as contraband of war :

1. Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article XXX.
2. Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.[29]

ARTICLE XXX.

Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transhipment or a subsequent transport by land.[30]

ARTICLE XXXI.

Proof of the destination specified in Article XXX. is complete in the following cases :

1. When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.
2. When the vessel is to call at enemy ports only, or when she is to touch at an enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.[31]

[28] To lessen the drawbacks of war as regards neutral trade it has been thought useful to draw up this so-called *free list*, but this does not mean, as has been explained above, that all articles outside it might be declared contraband of war.

The *ores* here referred to are the product of mines from which metals are derived.

There was a demand that *dyestuffs* should be included in 10, but this seemed too general, for there are materials from which colours are derived, such as coal, which also have other uses. Products only used for making colours enjoy the exemption.

"Articles de Paris," an expression the meaning of which is universally understood, come under 15.

16 refers to the hair of certain animals, such as pigs and wild boars.

Carpets and mats come under household furniture and ornaments (17).

[29] The articles enumerated in Article XXIX. are also excluded from treatment as contraband, but for reasons different from those which have led to the inclusion of the list in Article XXVIII.

Motives of humanity have exempted articles exclusively used to aid the sick and wounded, which, of course, include drugs and different medicines. This does not refer to hospital ships, which enjoy special immunity under the convention of The Hague of the 18th October 1907, but to ordinary merchant vessels, whose cargo includes articles of the kind mentioned. The cruiser has, however, the right, in case of urgent necessity, to requisition such articles for the needs of her crew or of the fleet to which she belongs, but they can only be requisitioned on payment of compensation. It must, however, be observed that this right of requisition may not be exercised in all cases. The articles in question must have the destination specified in Article XXX., that is to say, an enemy destination. Otherwise, the ordinary law regains its sway; a belligerent could not have the right of requisition as regards neutral vessels on the high seas.

Articles intended for the use of the vessel, which might in themselves and by their nature be contraband of war, may not be so treated—for instance, arms intended for the defence of the vessel against pirates, or for making signals. The same is true of articles intended for the use of the crew and passengers during the voyage; the crew here includes all persons in the service of the vessel in general.

Destination of Contraband.—As has been said, the second element in the notion of contraband is *destination*. Great difficulties have arisen on this subject, which find expression in the *theory of continuous voyage*, so often attacked or adduced without a clear comprehension of its exact meaning. Cases must simply be considered on their merits so as to see how they can be settled without unnecessarily annoying neutrals or sacrificing the legitimate rights of belligerents.

In order to effect a compromise between conflicting theories and practices, absolute and conditional contraband have been differently treated in this connection.

Articles XXX. to XXXII. refer to absolute, and Articles XXXIII. to XXXVI. to conditional contraband.

[30] The articles included in the list in Article XXII. are absolute contraband when they are destined for territory belonging to or occupied by the enemy, or for his armed military or naval forces. These articles are liable to capture as soon as a final destination of this kind can be shown by the captor to exist. It is not, therefore, the destination of the vessel which is decisive, but that of the goods. It makes no difference if these goods are on board a vessel which is to discharge them in a neutral port; as soon as the captor is able to show that they are to be forwarded from there by land or sea to an enemy country, it is enough to justify the capture and subsequent condemnation of the cargo. The very principle of continuous voyage, as regards absolute contraband, is established by Article XXX. The journey made by the goods is regarded as a whole.

[31] As has been said, the obligation of proving that the contraband goods really have the destination specified in Article XXX. rests with the captor. In certain cases proof of the destination specified in Article XXXI. is *conclusive*, that is to say, the proof may not be rebutted.

First Case.—The goods are *documented* for discharge in an enemy port, that is to say, according to the ship's papers referring to those goods, they are to be discharged there. In this case there is a real admission of enemy destination on the part of the interested parties themselves.

Second Case.—The vessel is to touch at enemy ports only; or she is to touch at an enemy port before reaching the neutral port for which the goods are documented, so that although these goods, according to the papers referring to them, are to be discharged in a neutral port, the vessel carrying them is to touch at an enemy port before reaching that neutral port. They will be liable to capture, and the possibility of proving that their neutral destination is real and in accordance with the intentions of the parties interested is not admitted. The fact that, before reaching that destination, the vessel will touch at an enemy port, would occasion too great a risk for the belligerent whose cruiser searches the vessel. Even without assuming that there is intentional fraud, there might be a strong temptation for the master of the merchant vessel to discharge the contraband, for which he would get a good price, and for the local authorities to requisition the goods.

The same case arises where the vessel, before reaching the neutral port, is to join the armed forces of the enemy.

For the sake of simplicity, the provision only speaks of an *enemy port*, but it is understood that a *port occupied by the enemy* must be regarded as an enemy port, as follows from the general rule in Article XXX.

ARTICLE XXXII.

Les papiers de bord font preuve complète de l'itinéraire du navire transportant de la contrebande absolue, à moins que le navire soit rencontré ayant manifestement dévié de la route qu'il devrait suivre d'après ses papiers de bord et sans pouvoir justifier d'une cause suffisante de cette déviation.

ARTICLE XXXIII.

Les articles de contrebande conditionnelle sont saisissables, s'il est établi qu'ils sont destinés à l'usage des forces armées ou des administrations de l'État ennemi, à moins, dans ce dernier cas, que les circonstances établissent qu'en fait ces articles ne peuvent être utilisés pour la guerre en cours; cette dernière réserve ne s'applique pas aux envois visés par l'Article XXIV.—4°.

ARTICLE XXXIV.

Il y a présomption de la destination prévue à l'Article XXXIII., si l'envoi est adressé aux autorités ennemies, ou à un commerçant établi en pays ennemi et lorsqu'il est notoire que ce commerçant fournit à l'ennemi des objets et materiaux de cette nature. Il en est de même si l'envoi est à destination d'une place fortifiée ennemie, ou d'une autre place servant de base aux forces armées ennemies; toutefois, cette présomption ne s'applique pas au navire de commerce lui-même faisant route vers une de ces places et dont on entend établir le caractère de contrebande.

A défaut des présomptions ci-dessus, la destination est présumée innocente.

Les présomptions établies dans le présent Article admettent la preuve contraire.

ARTICLE XXXV.

Les articles de contrebande conditionnelle ne sont saisissables que sur le navire qui fait route vers le territoire de l'ennemi ou vers un territoire occupé par lui ou vers ses forces armées et qui ne doit pas les décharger dans un port intermédiaire neutre.

Les papiers de bord font preuve complète de l'itinéraire du navire ainsi que du lieu de déchargement des marchandises, à moins que ce navire soit rencontré ayant manifestement dévié de la route qu'il devrait suivre d'après ses papiers de bord et sans pouvoir justifier d'une cause suffisante de cette déviation.

ARTICLE XXXVI.

Par dérogation à l'Article XXXV., si le territoire de l'ennemi n'a pas de frontière maritime, les articles de contrebande conditionnelle sont saisissables, lorsqu'il est établi qu'ils ont la destination prévue à l'Article XXXIII.

ARTICLE XXXII.

Where a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers and unable to give adequate reasons to justify such deviation.[32]

ARTICLE XXXIII.

Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances show that the goods cannot in fact be used for the purposes of the war in progress. This latter exception does not apply to a consignment coming under Article XXIV. (4).[33]

ARTICLE XXXIV.

The destination referred to in Article XXXIII. is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises against the merchant vessel itself bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise, the destination is presumed to be innocent.

The presumptions set up by this Article may be rebutted.[34]

ARTICLE XXXV.

Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.[35]

ARTICLE XXXVI.

Notwithstanding the provisions of Article XXXV., conditional contraband, if shown to have the destination referred to in Article XXXIII., is liable to capture in cases where the enemy country has no seaboard.[36]

[32] The papers, therefore, are conclusive proof of the course of the vessel unless she is encountered in circumstances which show that their statements are not to be trusted. See also the explanations given as regards Article XXXV.

[33] The rules for conditional contraband differ from those laid down for absolute contraband in two respects: (1) there is no question of destination for the enemy in general, but of destination for the use of his armed forces or government departments; (2) the doctrine of continuous voyage is excluded. Articles XXXIII. and XXXIV. refer to the first, and Article XXXV. to the second principle.

The articles included in the list of conditional contraband may serve for peaceful uses as well as for hostile purposes. If, from the circumstances, the peaceful purpose is clear, their capture is not justified; it is otherwise if a hostile purpose is to be assumed, as, for instance, in the case of foodstuffs destined for an enemy army or fleet, or of coal destined for an enemy fleet. In such a case there is clearly no room for doubt. But what is the solution when the articles are destined for the civil government departments of the enemy State? It may be money sent to a government department, for use in the payment of its official salaries, or rails sent to a department of public works. In these cases there is *enemy destination* which renders the goods liable in the first place to capture, and in the second to condemnation. The reasons for this are at once legal and practical. The State is one, although it necessarily acts through different departments. If a civil department may freely receive foodstuffs or money, that department is not the only gainer, but the entire State, including its military administration, gains also, since the general resources of the State are thereby increased. Further, the receipts of a civil department may be considered of greater use to the military administration and directly assigned to the latter. Money or foodstuffs really destined for a civil department may thus come to be used directly for the needs of the army. This possibility, which is always present, shows why destination for the departments of the enemy State is assimilated to that for its armed forces.

It is the *departments of the State* which are dependent on the central power that are in question, and not all the departments which may exist in the enemy State; local and municipal bodies, for instance, are not included, and articles destined for their use would not be contraband.

War may be waged in such circumstances that destination for the use of a civil department cannot be suspect, and consequently cannot make goods contraband. For instance, there is a war in Europe, and the colonies of the belligerent countries are not, in fact, affected by it. Foodstuffs or other articles in the list of conditional contraband destined for the use of the civil government of a colony would not be held to be contraband of war, because the considerations adduced above do not apply to their case; the resources of the civil government cannot be drawn on for the needs of the war. Gold, silver, or paper money are exceptions, because a sum of money can easily be sent from one end of the world to the other.

[34] Contraband articles will not usually be directly addressed to the military authorities or to the government departments of the enemy State. Their true destination will be more or less concealed, and the captor must prove it in order to justify their capture. But it has been thought reasonable to set up presumptions based on the nature of the person to whom, or place for which, the articles are destined. It may be an enemy authority or a trader established in an enemy country who, as a matter of common knowledge, supplies the enemy Government with articles of the kind in question. It may be a fortified place belonging to the enemy or a place used as a base, whether of operations or of supply, for the armed forces of the enemy.

This general presumption may not be applied to the merchant vessel herself on her way to a fortified place, though she may in herself be conditional contraband, but only if her destination for the use of the armed forces or government departments of the enemy State is directly proved.

In the absence of the above presumptions, the destination is presumed to be innocent. That is the ordinary law, according to which the captor must prove the illicit character of the goods which he claims to capture.

Finally, all the presumptions thus set up in the interest of the captor or against him may be rebutted. The national tribunals, in the first place, and, in the second, the International Court, will exercise their judgment.

[35] As has been said above, the doctrine of continuous voyage is excluded for conditional contraband, which is only liable to capture when it is to be discharged in an enemy port. As soon as the goods are documented for discharge in a neutral port they can no longer be contraband, and no examination will be made as to whether they are to be forwarded to the enemy by sea or land from that neutral port. It is here that the case of absolute contraband is essentially different.

The ship's papers furnish complete proof as to the voyage on which the vessel is engaged and as to the place where the cargo is to be discharged; but this would not be so if the vessel were encountered clearly out of the course which she should follow according to her papers, and unable to give adequate reasons to justify such deviation.

This rule as to the proof furnished by the ship's papers is intended to prevent claims frivolously raised by a cruiser and giving rise to unjustifiable captures. It must not be too literally interpreted, for that would make all frauds easy. Thus it does not hold good when the vessel is encountered at sea clearly out of the course which she ought to have followed, and unable to justify such deviation. The ship's papers are then in contradiction with the true facts and lose all value as evidence; the cruiser will be free to decide according to the merits of the case. In the same way, a search of the vessel may reveal facts which irrefutably prove that her destination or the place where the goods are to be discharged is incorrectly entered in the ship's papers. The commander of the cruiser is then free to judge of the circumstances and capture the vessel or not according to his judgment. To resume, the ship's papers are proof, unless facts show their evidence to be false. This qualification of the value of the ship's papers as proof seems self-evident and unworthy of special mention. The aim has been not to appear to weaken the force of the general rule, which forms a safeguard for neutral trade.

It does not follow that, because a single entry in the ship's papers is shown to be false, their evidence loses its value as a whole. The entries which cannot be proved false retain their value.

[36] The case contemplated is certainly rare, but has nevertheless arisen in recent wars. In the case of absolute contraband, there is no difficulty, since destination for the enemy may always be proved, whatever the route by which the goods are sent (Article XXX.). For conditional contraband the case is different, and an exception must be made to the general rule laid down in Article XXXV., paragraph 1, so as to allow the captor to prove that the suspected goods really have the special destination referred to in Article XXXIII. without the possibility of being confronted by the objection that they were to be discharged in a neutral port.

ARTICLE XXXVII.

Le navire transportant des articles, qui sont saisissables comme contrebande absolue ou conditionnelle, peut être saisi, en haute mer ou dans les eaux des belligérants, pendant tout le cours de son voyage, même s'il a l'intention de toucher à un port d'escale avant d'atteindre la destination ennemie.

ARTICLE XXXVIII.

Une saisie ne peut être pratiquée en raison d'un transport de contrebande antérieurement effectué et actuellement achevé.

ARTICLE XXXIX.

Les articles de contrebande sont sujets à confiscation.

ARTICLE XL.

La confiscation du navire transportant de la contrebande est permise, si cette contrebande forme, soit par sa valeur, soit par son poids, soit par son volume, soit par son fret, plus de la moitié de la cargaison.

ARTICLE XLI.

Si le navire transportant de la contrebande est relâché, les frais occasionnés au capteur par la procédure devant la juridiction nationale des prises ainsi que par la conservation du navire et de sa cargaison pendant l'instruction sont à la charge du navire.

ARTICLE XLII.

Les marchandises qui appartiennent au propriétaire de la contrebande et qui se trouvent à bord du même navire sont sujettes à confiscation.

ARTICLE XLIII.

Si un navire est rencontré en mer naviguant dans l'ignorance des hostilités ou de la déclaration de contrebande applicable à son chargement, les articles de contrebande ne peuvent être confisqués que moyennant indemnité; le navire et le surplus de la cargaison sont exempts de la confiscation et des frais prévus par l'Article XLI. Il en est de même si le capitaine, après avoir eu connaissance de l'ouverture des hostilités ou de la déclaration de contrebande, n'a pu encore décharger les articles de contrebande.

Le navire est réputé connaître l'état de guerre ou la déclaration de contrebande, lorsqu'il a quitté un port neutre, après que la notification de l'ouverture des hostilités ou de la déclaration de contrebande a été faite en temps utile à la Puissance dont relève ce port. L'état de guerre est, en outre, réputé connu par le navire lorsqu'il a quitté un port ennemi après l'ouverture des hostilités.

ARTICLE XXXVII.

A vessel carrying goods liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole of the voyage, even if she is to touch at a port of call before reaching the hostile destination.[37]

ARTICLE XXXVIII.

A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.[38]

ARTICLE XXXIX.

Contraband goods are liable to condemnation.[39]

ARTICLE XL.

A vesse carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.[40]

ARTICLE XLI.

If a vessel carrying contraband is released, she may be condemned to pay the costs and expenses incurred by the captor in respect of the proceedings in the national prize court and the custody of the ship and cargo during the proceedings.[41]

ARTICLE XLII.

Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.[42]

ARTICLE XLIII.

If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband cannot be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in Article XLI. The same rule applies if the master, after becoming aware of the outbreak of hostilities, or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war, or of a declaration of contraband, if she left a neutral port subsequently to the notification to the Power to which such port belongs of the outbreak of hostilities or of the declaration of contraband respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.[43]

[37] The vessel may be captured for contraband during the whole of her voyage, provided that she is in waters where an act of war is lawful. The fact that she intends to touch at a port of call before reaching the enemy destination does not prevent capture, provided that destination in her particular case is proved in conformity with the rules laid down in Articles XXX. to XXXII. for absolute, and in Articles XXXIII. to XXXV. for conditional contraband, subject to the exception provided in Article XXXVI.

[38] A vessel is liable to capture for carrying contraband, but not for having done so.

[39] This presents no difficulty.

[40] It was universally admitted that in certain cases the condemnation of the contraband is not enough, and that the vessel herself should also be condemned, but opinions differed as to what these cases were. It was decided that the contraband must bear a certain proportion to the total cargo. But the question divides itself into two parts: (1) What shall be the proportion? The solution adopted is the mean between those proposed, which varied from a quarter to three-quarters. (2) How shall this proportion be reckoned? Must the contraband form more than half the cargo in volume, weight, value, or freight? The adoption of a single fixed standard gives rise to theoretical objections, and also to practices intended to avoid condemnation of the vessel in spite of the importance of the cargo. If the standard of volume or weight is adopted, the master will ship innocent goods occupying space, or of weight, sufficient to exceed the contraband. A similar remark may be made as regards the standard of value or freight. The consequence is that, in order to justify condemnation, it is enough that the contraband should form more than half the cargo by any one of the above standards. This may seem harsh; but, on the one hand, any other system would make fraudulent calculations easy, and, on the other, the condemnation of the vessel may be said to be justified when the carriage of contraband formed an important part of her venture—a statement which applies to all the cases specified.

[41] It is not just that, on the one hand, the carriage of more than a certain proportion of contraband should involve the condemnation of the vessel, while if the contraband forms less than this proportion, it alone is confiscated. This often involves no loss for the master, the freight of this contraband having been paid in advance. Does this not encourage trade in contraband, and ought not a certain penalty to be imposed for the carriage of a proportion of contraband less than that required to entail condemnation? A kind of fine was proposed which should bear a relation to the value of the contraband articles. Objections of various sorts were brought forward against this proposal, although the principle of the infliction of some kind of pecuniary loss for the carriage of contraband seemed justified. The same object was attained in another way by providing that the costs and expenses incurred by the captor in respect of the proceedings in the national prize court and of the custody of the vessel and of her cargo during the proceedings are to be paid by the vessel. The expenses of the custody of the vessel include in this case the keep of the captured vessel's crew. It should be added that the loss to a vessel by being taken to a prize port and kept there is the most serious deterrent as regards the carriage of contraband.

[42] The owner of the contraband is punished in the first place by the condemnation of his contraband property; and in the second by that of the goods, even if innocent, which he may possess on board the same vessel.

[43] This provision is intended to spare neutrals who might in fact be carrying contraband, but against whom no charge could be made. This may arise in two cases. The first is that in which they are unaware of the outbreak of hostilities; the second is that in which, though aware of this, they do not know of the declaration of contraband made by a belligerent, in accordance with Articles XXIII. and XXV., which is, as it happens, the one applicable to the whole or a part of the cargo. It would be unjust to capture the ship and condemn the contraband; on the other hand, the cruiser cannot be obliged to let go on to the enemy goods suitable for use in the war of which he may stand in urgent need. These opposing interests are reconciled by making condemnation conditional on the payment of compensation (see the Convention of the 18th October 1907, on the rules for enemy merchant vessels on the outbreak of hostilities, which expresses a similar idea).

ARTICLE XLIV.

Le navire arrêté pour cause de contrebande et non susceptible de confiscation à raison de la proportion de la contrebande peut être autorisé, suivant les circonstances, à continuer sa route, si le capitaine est prêt à livrer la contrebande au bâtiment belligérant.

La remise de la contrebande est mentionnée par le capteur sur le livre de bord du navire arrêté, et le capitaine de ce navire doit remettre au capteur copie certifiée conforme de tous papiers utiles.

Le capteur a la faculté de détruire la contrebande que lui est ainsi livrée.

Chapitre III.—De l'Assistance Hostile.

ARTICLE XLV.

Un navire neutre est confisqué et, d'une manière générale, passible du traitement que subirait un navire neutre sujet à confiscation pour contrebande de guerre :

1°. Lorsqu'il voyage spécialement en vue du transport de passagers individuels incorporés dans la force armée de l'ennemi, ou en vue de la transmission de nouvelles dans l'intérêt de l'ennemi.

2°. Lorsqu'à la connaissance soit du propriétaire, soit de celui qui a affrété le navire en totalité, soit du capitaine, il transporte un détachement militaire de l'ennemi ou une ou plusieurs personnes qui, pendant le voyage, prêtent une assistance directe aux opérations de l'ennemi.

Dans les cas visés aux numéros précédents, les marchandises appartenant au propriétaire du navire sont également sujettes à confiscation.

Les dispositions du présent Article ne s'appliquent pas si, lorsque le navire est rencontré en mer, il ignore les hostilités ou si le capitaine, après avoir appris l'ouverture des hostilités, n'a pu encore débarquer les personnes transportées. Le navire est réputé connaître l'état de guerre, lorsqu'il a quitté un port ennemi après l'ouverture des hostilités ou un port neutre postérieurement à la notification en temps utile de l'ouverture des hostilités à la Puissance dont relève ce port.

ARTICLE XLVI.

Un navire neutre est confisqué et, d'une manière générale, passible du traitement qu'il subirait s'il était un navire de commerce ennemi :

ARTICLE XLIV.

A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the logbook of the vessel stopped, and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under these conditions.[44]

Chapter III.—Unneutral Service.

ARTICLE XLV.

A neutral vessel will be condemned and will, in a general way, receive the same treatment as a neutral vessel liable to condemnation for carriage of contraband :

1. If she is on a voyage specially undertaken with a view to the transport of individual passengers who are embodied in the armed forces of the enemy, or with a view to the transmission of intelligence in the interest of the enemy.

2. If, to the knowledge of either the owner, the charterer, or the master, she is transporting a military detachment of the enemy, or one or more persons who, in the course of the voyage, directly assist the operations of the enemy.

In the cases specified under the above heads, goods belonging to the owner of the vessel are likewise liable to condemnation.

The provisions of the present Article do not apply if the vessel is encountered at sea while unaware of the outbreak of hostilities, or if the master, after becoming aware of the outbreak of hostilities, has had no opportunity of disembarking the passengers. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port subsequently to the outbreak of hostilities, or a neutral port subsequently to the notification of the outbreak of hostilities to the Power to which such port belongs, provided that such notification was made in sufficient time.[45]

ARTICLE XLVI.

A neutral vessel will be condemned and, in a general way, receive the same treatment as would be applicable to her if she were an enemy merchant vessel :

[44] A neutral vessel is stopped for carrying contraband. She is not liable to condemnation, because the contraband does not reach the proportion specified in Article XL. She can, nevertheless, be taken to a prize port for judgment to be passed on the contraband. This right of the captor appears too wide in certain cases, if the importance of the contraband, possibly slight (for instance, a case of guns or revolvers), is compared with the heavy loss incurred by the vessel by being thus turned out of her course and detained during the time taken up by the proceedings. The question has, therefore, been asked whether the right of the neutral vessel to continue her voyage might not be admitted if the contraband articles were handed over to the captor, who, on his part, might only refuse to receive them for sufficient reasons, for instance, the rough state of the sea, which would make transhipment difficult or impossible, well-founded suspicions as to the amount of contraband which the merchant vessel is really carrying, the difficulty of stowing the articles on board the warship, etc. This proposal did not gain sufficient support. It was alleged to be impossible to impose such an obligation on the cruiser, for which this handing over of goods would almost always have drawbacks. If, by chance, it has none, the cruiser will not refuse it, because she herself will gain by not being turned out of her course by having to take the vessel to a port. The idea of an obligation having thus been excluded, it was decided to provide for the voluntary handing over of the contraband, which, it is hoped, will be carried out whenever possible, to the great advantage of both parties. The formalities provided for are very simple and need no explanation.

There must be a judgment of a prize court as regards the goods thus handed over. For this purpose the capture must be furnished with the necessary papers. It may be supposed that there might be doubt as to the character of certain articles which the cruiser claims as contraband; the master of the merchant vessel contests this claim, but prefers to deliver them up so as to be at liberty to continue his voyage. This is merely a capture which has to be confirmed by the prize court.

The contraband delivered up by the merchant vessel may hamper the cruiser, which must be left free to destroy it at the moment of handing over or later.

CHAPTER III.

Unneutral Service.

In a general way, it may be said that the merchant vessel which violates neutrality, whether by carrying contraband of war or by breaking blockade, affords aid to the enemy, and it is on this ground that the belligerent whom she injures by her acts is justified in inflicting on her certain losses. But there are cases where such unneutral service bears a particularly distinctive character, and for such cases it has been thought necessary to make special provision. They have been divided into two classes, according to the gravity of the act of which the neutral vessel is accused.

In the cases included in the first class (Article XLV.), the vessel is condemned, and receives the treatment of a vessel subject to condemnation for carrying contraband. This means that the vessel does not lose her neutral character and has a full claim to the rights enjoyed by neutral vessels; for instance, she may not be destroyed by the captor except under the conditions laid down for neutral vessels (Articles XLVIII. *et seqq.*); the rule that *the flag covers the goods* applies to goods she carries on board.

In the more serious cases which belong to the second class (Article XLVI.), the vessel is, again, condemned; but further, she is treated not only as a vessel subject to condemnation for carrying contraband, but as an enemy merchant vessel, which treatment entails certain consequences. The rules governing the destruction of neutral prizes does not apply to the vessel, and, as she has become an enemy vessel, it is no longer the second but the third rule of the Declaration of Paris which is applicable. The goods on board will be presumed to be enemy goods; neutrals will have the right to claim their property on establishing their neutrality (Article LIX.). It would, however, be going too far to say that the original neutral character of the vessel is completely lost, so that she should be treated as though she had always been an enemy vessel. The vessel may plead that the allegation made against her has no foundation in fact, that the act of which she is accused has not the character of unneutral service. She has, therefore, the right of appeal to the International Court in virtue of the provisions which protect neutral property.

[45] The first case supposes passengers travelling *as individuals*; the case of a *military detachment* is dealt with hereafter. The case is that of individuals *embodied* in the armed military or naval forces of the enemy. There was some doubt as to the meaning of this word. Does it include those individuals only who are summoned to serve in virtue of the law of their country and who have really joined the corps to which they are to belong? Or does it also include such individuals from the moment when they are summoned, and before they join that corps? The question is of great practical importance. Supposing the case is one of individuals who are natives of a continental European country and are settled in America; these individuals have military obligations towards their country of origin; they have, for instance, to belong to the reserve of the active army of that country. Their country is at war and they sail to perform their service. Shall they be considered as *embodied* in the sense of the provision which we are discussing? If we judged by the municipal law of certain countries, we might argue that they should be so considered. But, apart from reasons of pure law, the contrary opinion has seemed more in accordance with practical necessity and has been accepted by all in a spirit of conciliation. It would be difficult, perhaps even impossible, without having recourse to vexatious measures to which neutral Governments would not unwillingly submit, to pick out among the passengers in a vessel, those who are bound to perform military service and are on their way to do so.

The transmission of intelligence in the interest of the enemy is to be treated in the same way as the carriage of passengers embodied in his armed force. The reference to a vessel *especially* undertaking a voyage is intended to show that her usual service is not meant. She has been turned from her course; she has touched at a port which she does not ordinarily visit in order to embark the passengers in question. She need not be *exclusively* devoted to the service of the enemy; that case would come into the second class (Article XLVI. (4)).

In the two cases just mentioned the vessel has performed but a single service; she has been employed to carry certain people, or to transmit certain intelligence; she is not continuously in the service of the enemy. In consequence she may be captured during the voyage on which she is performing the service which she has to render. Once that voyage is finished, all is over, in the sense that she may not be captured for having rendered the service in question. The principle is the same as that recognized in the case of contraband (Article XXXVIII.).

The second case also falls under two heads.

There is, first, the carriage of a military detachment of the enemy, or that of one or more persons who during the voyage directly assist his operations, for instance, by signalling. If these people are soldiers or sailors in uniform there is no difficulty, the vessel is clearly liable to condemnation. If they are soldiers or sailors in mufti who might be mistaken for ordinary passengers, knowledge on the part of the master or owner is required, the charterer being assimilated to the latter. The rule is the same in the case of persons directly assisting the enemy during the voyage.

In these cases, if the vessel is condemned for unneutral service, the goods belonging to her owner are also liable to condemnation.

These provisions assume that the state of war was known to the vessel engaged in the operations specified; such knowledge is the reason and justification

1°. Lorsqu'il prend une part directe aux hostilités ;
2°. Lorsqu'il se trouve sous les ordres ou sous le contrôle d'un agent placé à bord par le Gouvernement ennemi ;
3°. Lorsqu'il est affrété en totalité par le Gouvernement ennemi ;
4°. Lorsqu'il est actuellement et exclusivement affecté, soit au transport de troupes ennemies, soit à la transmission de nouvelles dans l'intérêt de l'ennemi.

Dans les cas visés par le présent Article les marchandises appartenant au propriétaire du navire sont également sujettes à confiscation.

ARTICLE XLVII.

Tout individu incorporé dans la force armée de l'ennemi, et ui sera trouvé à bord d'un navire de commerce neutre, pourra être fait prisonnier de guerre, quand même il n'y aurait pas lieu de saisir ce navire.

Chapitre IV.—De la Destruction des Prises Neutres.

ARTICLE XLVIII.

Un navire neutre saisi ne peut être détruit par le capteur, mais il doit être conduit dans tel port qu'il appartiendra pour y être statué ce que de droit sur la validité de la capture.

ARTICLE XLIX.

Par exception, un navire neutre, saisi par un bâtiment belligérant et qui serait sujet à confiscation, peut être détruit, si l'observation de l'Article XLVIII. peut compromettre la sécurité du bâtiment de guerre ou le succès des opérations dans lesquelles celui-ci est actuellement engagé.

ARTICLE L.

Avant la destruction, les personnes qui se trouvent à bord devront être mises en sûreté, et tous les papiers de bord et autres pièces, que les intéressés estimeront utiles pour le jugement sur la validité de la capture, devront être transbordés sur le bâtiment de guerre.

1. If she takes a direct part in the hostilities ;
2. If she is under the orders or control of an agent placed on board by the enemy Government ;
3. If she is in the exclusive employment of the enemy Government ;
4. If she is exclusively engaged at the time either in the transport of enemy troops or in the transmission of intelligence in the interest of the enemy.

In the cases covered by the present Article, goods belonging to the owner of the vessel are likewise liable to condemnation.[46]

ARTICLE XLVII.

Any individual embodied in the armed forces of the enemy who is found on board a neutral merchant vessel may be made a prisoner of war, even though there be no ground for the capture of the vessel.[47]

Chapter IV.—Destruction of Neutral Prizes.

ARTICLE XLVIII.

A neutral vessel which has been captured may not be destroyed by the captor ; she must be taken into such port as is proper for the determination there of all questions concerning the validity of the capture.[48]

ARTICLE XLIX.

As an exception, a neutral vessel which has been captured by a belligerent warship, and which would be liable to condemnation, may be destroyed if the observance of Article XLVIII. would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time.[49]

ARTICLE L.

Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the warship.[50]

of her condemnation. The position is altogether different when the vessel is unaware of the outbreak of hostilities, so that she undertakes the service in ordinary circumstances. She may have learnt of the outbreak of hostilities while at sea, but have had no chance of landing the persons whom she was carrying. Condemnation would then be unjust, and the equitable rule adopted is in accordance with the provisions already accepted in other matters. If a vessel has left an enemy port subsequently to the outbreak of hostilities, or a neutral port after that outbreak has been notified to the Power to whom such port belongs, her knowledge of the existence of a state of war will be presumed.

The question here is merely one of preventing the condemnation of the vessel. The persons found on board her who belong to the armed forces of the enemy may be made prisoners of war by the cruiser.

[46] The cases here contemplated are more serious than those in Article XLV., which justifies the severer treatment inflicted on the vessel, as explained above.

First Case.—The vessel takes a direct part in the hostilities. This may take different forms. It is needless to say that, in an armed conflict, the vessel takes all the risks incidental thereto. We suppose her to have fallen into the power of the enemy whom she was fighting, and who is entitled to treat her as an enemy merchant vessel.

Second Case.—The vessel is under the orders or control of an agent placed on board by the enemy Government. His presence marks the relation in which she stands to the enemy. In other circumstances the vessel may also have relations with the enemy, but to be subject to condemnation she must come under the third head.

Third Case.—The whole vessel is chartered by the enemy Government, and is therefore entirely at its disposal; it can use her for different purposes more or less directly connected with the war, notably, as a transport; such is the position of colliers which accompany a belligerent fleet. There will often be a charter-party between the belligerent Government and the owner or master of the vessel, but all that is required is proof, and the fact that the whole vessel has in fact been chartered is enough, in whatever way it may be established.

Fourth Case.—The vessel is at the time exclusively devoted to the carriage of enemy troops or to the transmission of intelligence in the enemy's interest. The case is different from those dealt with by Article XLV., and the question is one of a service to which the ship is permanently devoted. The decision accordingly is that, so long as such service lasts, the vessel is liable to capture, even if, at the moment when an enemy cruiser searches her, she is engaged neither in the transport of troops nor in the transmission of intelligence.

As in the cases in Article XLV. and for the same reasons, goods found on board belonging to the owner of the vessel are also liable to condemnation.

It was proposed to treat as an enemy merchant vessel a neutral vessel making, at the time, and with the sanction of the enemy Government, a voyage which she has only been permitted to make subsequently to the outbreak of hostilities or during the two preceding months. This rule would be enforced notably on neutral merchant vessels admitted by a belligerent to a service reserved in time of peace to the national marine of that belligerent—for instance, to the coasting trade. Several Delegations formally rejected this proposal, so that the question thus raised remains an open one.

[47] Individuals embodied in the armed military or naval forces of a belligerent may be on board a neutral merchant vessel when she is searched. If the vessel is subject to condemnation, the cruiser will capture her and take her to one of her own ports with the persons on board. Clearly the soldiers or sailors of the enemy State will not be set free, but will be treated as prisoners of war. Perhaps the case will not be one for the capture of the ship—for instance, because the master was unaware of the status of an individual who had come on board as an ordinary passenger. Must the soldier or soldiers on board the vessel be set free? That does not appear admissible. The belligerent cruiser cannot be compelled to set free active enemies who are physically in her power and are more dangerous than this or that contraband article. She must naturally proceed with great discretion, and must act on her own responsibility in requiring the surrender of these individuals, but the right to do so is hers; it has therefore been thought necessary to explain the point.

CHAPTER IV.

Destruction of Neutral Prizes.

The destruction of neutral prizes was a subject comprised in the programme of the Second Peace Conference, and on that occasion no settlement was reached. It reappeared in the programme of the present Conference, and this time agreement has been found possible. Such a result, which bears witness to the sincere desire of all parties to arrive at an understanding, is a matter for congratulation. It has been shown once more that conflicting hard-and-fast rules do not always correspond to things as they are, and that if there be readiness to descend to particulars, and to arrive at the precise way in which the rules have been applied, it will often be found that the actual practice is very much the same, although the doctrines professed appear to be entirely in conflict. To enable two parties to agree, it is first of all necessary that they should understand each other, and this frequently is not the case. Thus it has been found that those who declared for the right to destroy neutral prizes never claimed to use this right wantonly or at every opportunity, but only by the way of exception; while, on the other hand, those who maintained the principle that destruction is forbidden, admitted that the principle must give way in certain exceptional cases. It therefore became a question of reaching an understanding with regard to those exceptional cases to which, according to both views, the right to destroy should be confined. But this was not all: there was need for some guarantee against abuse in the exercise of this right; the possibility of arbitrary action in determining these exceptional cases must be limited by throwing some real responsibility upon the captor. It was at this stage that a new idea was introduced into the discussion, thanks to which it was possible to arrive at an agreement. The possibility of intervention by a court of justice will make the captor reflect before he acts, and at the same time secure reparation in cases where there was no reason for the destruction.

Such is the general spirit of the provisions of this chapter.

[48] The general principle is very simple. A neutral vessel which has been seized may not be destroyed by the captor; so much may be admitted by every one, whatever view is taken as to the effect produced by the capture. The vessel must be taken into a port for the determination there as to the validity of the prize. A prize crew will be put on board or not, according to circumstances.

[49] The first condition necessary to justify the destruction of the captured vessel is that she should be liable to condemnation upon the facts of the case. If the captor cannot even hope to obtain the condemnation of the vessel, how can he lay claim to the right to destroy her?

The second condition is that the observance of the general principle would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time. This is what was finally agreed upon after various solutions had been tried. It was understood that the phrase *compromettre la sécurité* was synonymous with *mettre en danger le navire*, and might be translated into English by: *involve danger*. It is, of course, the situation at the moment when the destruction takes place which must be considered in order to decide whether the conditions are or are not fulfilled. For a danger which did not exist at the actual moment of the capture may have appeared some time afterwards.

[50] This provision lays down the precautions to be taken in the interests of the persons on board and of the administration of justice.

ARTICLE LI.

Le capteur qui a détruit un navire neutre doit, préalablement à tout jugement sur la validité de la capture, justifier en fait n'avoir agi qu'en présence d'une nécessité exceptionnelle, comme elle est prévue à l'Article XLIX. Faute par lui de ce faire, il est tenu à indemnité vis-à-vis des intéressés, sans qu'il y ait à rechercher si la capture était valable ou non.

ARTICLE LII.

Si la capture d'un navire neutre, dont la destruction a été justifiée, est ensuite déclarée nulle, le capteur doit indemniser les intéressés en remplacement de la restitution à laquelle ils auraient droit.

ARTICLE LIII.

Si des marchandises neutres qui n'étaient pas susceptibles de confiscation ont été détruites avec le navire, le propriétaire de ces marchandises a droit à une indemnité.

ARTICLE LIV.

Le capteur a la faculté d'exiger la remise ou de procéder à la destruction des marchandises confiscables trouvées à bord d'un navire qui lui-même n'est pas sujet à confiscation, lorsque les circonstances sont telles que, d'après l'Article XLIX., elles justifieraient la destruction d'un navire passible de confiscation. Il mentionne les objets livrés ou détruits sur le livre de bord du navire arrêté et se fait remettre par le capitaine copie certifiée conforme de tous papiers utiles. Lorsque la remise ou la destruction a été effectuée et que les formalités ont été remplies, le capitaine doit être autorisé à continuer sa route.

Les dispositions des Articles LI. et LII. concernant la responsabilité du capteur qui a détruit un navire neutre sont applicables.

CHAPITRE V.—DU TRANSFERT DE PAVILLON.

ARTICLE LV.

Le transfert sous pavillon neutre d'un navire ennemi, effectué avant l'ouverture des hostilités, est valable à moins qu'il soit établi que ce transfert a été effectué en vue d'éluder les conséquences qu'entraîne le caractère de navire ennemi. Il y a néanmoins présomption de nullité si l'acte de transfert ne se trouve pas à bord, alors que le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités ; la preuve contraire est admise.

Il y a présomption absolue de validité d'un transfert effectué

ARTICLE LI.

A captor who has destroyed a neutral vessel must, prior to any decision respecting the validity of the prize, establish that he only acted in the face of an exceptional necessity of the nature contemplated in Article XLIX. If he fails to do this, he must compensate the parties interested and no examination shall be made of the question whether the capture was valid or not.[51]

ARTICLE LII.

If the capture of a neutral vessel is subsequently held to be invalid, though the act of destruction has been held to have been justifiable, the captor must pay compensation to the parties interested, in place of the restitution to which they would have been entitled.[52]

ARTICLE LIII.

If neutral goods not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.[53]

ARTICLE LIV.

The captor has the right to demand the handing over, or to proceed himself to the destruction of, any goods liable to condemnation found on board a vessel not herself liable to condemnation, provided that the circumstances are such as would, under Article XLIX., justify the destruction of a vessel herself liable to condemnation. The captor must enter the goods surrendered or destroyed in the logbook of the vessel stopped, and must obtain duly certified copies of all relevant papers. When the goods have been handed over or destroyed, and the formalities duly carried out, the master must be allowed to continue his voyage.

The provisions of Articles LI. and LII. respecting the obligations of a captor who has destroyed a neutral vessel are applicable.[54]

CHAPTER V.—TRANSFER TO A NEUTRAL FLAG.

ARTICLE LV.

The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of, the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.[55]

[51] and [52] This claim gives a guarantee against the arbitrary destruction of prizes by throwing a real responsibility upon the captor who has carried out the destruction. The result is that before any decision is given respecting the validity of the prize, the captor must prove that the situation he was in was really one which fell under the head of the exceptional cases contemplated. This must be proved in proceedings to which the neutral is a party, and if the latter is not satisfied with the decision of the national prize court he may take his case to the International Court. Proof to the above effect is, therefore, a condition precedent which the captor must fulfil. If he fails to do this, he must compensate the parties interested in the vessel and the cargo, and the question whether the capture was valid or not will not be gone into. In this way a real sanction is provided in respect of the obligation not to destroy a prize except in particular cases, the sanction taking the form of a fine inflicted on the captor. If, on the other hand, this proof is given, the prize procedure follows the usual course; if the prize is declared valid, no compensation is due; if it is declared void, the parties interested have a right to be compensated. Resort to the International Court can only be made after the decision of the prize court has been given on the whole matter, and not immediately after the preliminary question has been decided.

[53] Supposing a vessel which has been destroyed carried neutral goods not liable to condemnation: the owner of such goods has, in every case, a right to compensation, that is, without there being occasion to distinguish between cases where the destruction was or was not justified. This is equitable and a further guarantee against arbitrary destruction.

[54] A cruiser encounters a neutral merchant vessel carrying contraband in a portion less than that specified in Article XL. The captain may put a prize crew on board the vessel and take her into a port for adjudication. He may, in conformity with provisions of Article XLIV., agree to the handing over of the contraband if offered by the vessel stopped. But what is to happen if neither of these solutions is reached? The vessel stopped does not offer to hand over the contraband, and the cruiser is not in a position to take the vessel into a national port. Is the cruiser obliged to let the neutral vessel go with the contraband on board? To require this seemed going too far, at least in certain exceptional circumstances. These circumstances are in fact the same as would have justified the destruction of the vessel, had she been liable to condemnation. In such a case, the cruiser may demand the handing over, or proceed to the destruction, of the goods liable to condemnation. The reasons for which the right to destroy the vessel has been recognized may justify the destruction of the contraband goods, the more so as the considerations of humanity which can be adduced against the destruction of a vessel do not in this case apply. Against arbitrary demands by the cruiser there are the same guarantees as those which made it possible to recognize the right to destroy the vessel. The captor must, as a preliminary, prove that he was really faced by the exceptional circumstances specified; failing this, he is condemned to pay the value of the goods handed over or destroyed, and the question whether they were contraband or not will not be gone into.

The Article prescribes certain formalities which are necessary to establish the facts of the case and to enable the prize court to adjudicate.

Of course, when once the goods have been handed over or destroyed, and the formalities carried out, the vessel which has been stopped must be left free to continue her voyage.

CHAPTER V.

Transfer to a Neutral Flag.

An enemy merchant vessel is liable to capture, whereas a neutral merchant vessel is immune. It can therefore be readily understood that a belligerent cruiser encountering a merchant vessel which lays claim to neutral nationality has to inquire whether such nationality has been acquired legitimately or merely in order to shield the vessel from the risks to which she would have been exposed had she retained her former nationality. This question naturally arises when the transfer has taken place a comparatively short time before the moment at which the ship is searched, whether the actual date before, or after, the outbreak of hostilities. The answer will be different according as the question is looked at from the point of view of commercial or belligerent interests. Fortunately, rules have been agreed upon which conciliate both these interests as far as possible and which at the same time tell belligerents and neutral commerce what their position is.

[55] The general rule laid down in the first paragraph is that the transfer of an enemy vessel to a neutral flag is valid, assuming, of course, that the ordinary requirements of the law have been fulfilled. It is upon the captor, if he wishes to have the transfer annulled, that the onus lies of proving that its object was to evade the consequences entailed by the war in prospect. There is one case which is treated as suspicious, that, namely, in which the bill of sale is not on board when the ship has changed her nationality less than sixty days before the outbreak of hostilities. The presumption of validity which has been set up by the first paragraph in favour of the vessel is then replaced by a presumption in favour of the captor. It is presumed that the transfer is void, but the presumption may be rebutted. With a view to such rebuttal, proof may be given that the transfer was not effected in order to evade the consequences of the war; it is unnecessary to add that the ordinary requirements of the law must have been fulfilled.

It was thought desirable to give to commerce a guarantee that the right of treating a transfer as void on the ground that it was effected in order to evade the consequences of war should not extend too far, and should not cover too long a period. Consequently, if the transfer has been effected more than thirty days before the outbreak of hostilities, it cannot be impeached on that ground alone, and it is regarded as unquestionably valid if it has been made under conditions which show that it is genuine and final; these conditions are as follows: the transfer must be unconditional, complete, and in conformity with the laws of the countries concerned, and its effect must be such that both the control of, and the profits earned by, the vessel pass into other hands. When once these conditions are proved to exist, the captor is not allowed to set up the contention that the vendor foresaw the war in which his country was about to be involved, and wished by the sale to shield himself from the risks to which a state of war would have exposed him in respect of the vessel he was transferring. Even in this case, however, when a vessel is encountered by a cruiser and her bill of sale is not on board, she may be captured if a change of nationality has taken place less than sixty days before the outbreak of hostilities; that circumstance has made her suspect. But if before the prize court the proof required by the second paragraph is adduced, she must be released, though she cannot claim compensation, inasmuch as there was good reason for capturing her.

plus de trente jours avant l'ouverture des hostilités, s'il est absolu, complet, conforme à la législation des pays intéressés, et s'il a cet effet que le contrôle du navire et le bénéfice de son emploi ne restent pas entre les mêmes mains qu'avant le transfert. Toutefois, si le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités et si l'acte de transfert ne se trouve pas à bord, la saisie du navire ne pourra donner lieu à des dommages intérêts.

ARTICLE LVI.

Le transfert sous pavillon neutre d'un navire ennemi, effectué après l'ouverture des hostilités, est nul, à moins qu'il soit établi que ce transfert n'a pas été effectué en vue d'éluder les conséquences qu'entraîne le caractère de navire ennemi.

Toutefois, il y a présomption absolue de nullité :

1°. Si le transfert a été effectué pendant que le navire est en voyage ou dans un port bloqué.
2°. S'il y a faculté de réméré ou de retour.
3°. Si les conditions, auxquelles est soumis le droit de pavillon d'après la législation du pavilion arboré, n'ont pas été observées.

Chapitre VI.—Du Caractère Ennemi.

ARTICLE LVII.

Sous réserve des dispositions relatives au transfert de pavillon, le caractère neutre ou ennemi du navire est déterminé par le pavillon qu'il a le droit de porter.

Le cas où le navire neutre se livre à une navigation réservée en temps de paix reste hors de cause et n'est nullement visé par cette règle.

ARTICLE LVIII.

Le caractère neutre ou ennemi des marchandises trouvées à bord d'un navire ennemi est déterminé par le caractère neutre ou ennemi de leur propriétaire.

ARTICLE LVI.

The transfer of an enemy vessel to a neutral flag, effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void :

1. If the transfer has been made during a voyage or in a blockaded port.
2. If a right to purchase or recover the vessel is reserved to the vendor.
3. If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.[56]

Chapter VI.—Enemy Character.

ARTICLE LVII.

Subject to the provisions respecting transfer to another flag, the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

The case where a neutral vessel is engaged in a trade which is closed in time of peace, remains outside the scope of, and is in no wise affected by, this rule.[57]

ARTICLE LVIII.

The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.[58]

[56] The rule respecting *transfers made after the outbreak of hostilities* is more simple. Such a transfer is only valid if it is proved that its object was not to evade the consequences to which an enemy vessel, as such, is exposed. The rule accepted in respect of transfers made before the outbreak of hostilities is inverted. In that case there is a presumption that the transfer is valid; in the present, that it is void—provided always that proof to the contrary may be given. For instance, it might be proved that the transfer had taken place by inheritance.

Article LVI. recites cases in which the presumption that the transfer is void is absolute, for reasons which can be readily understood: in the first case, the connection between the transfer and the war risk run by the vessel is evident; in the second, the transferee is a mere man of straw, who is to be treated as owner during a dangerous period, after which the vendor will recover possession of his vessel; lastly, the third case might strictly be regarded as already provided for, since a vessel which lays claim to neutral nationality must naturally prove that she has a right to it.

At one time provision was made in this Article for the case of a vessel which was retained, after the transfer, in the trade in which she had previously been engaged. Such a circumstance is in the highest degree suspicious; the transfer has a fictitious appearance, inasmuch as nothing has changed in regard to the vessel's trade. This would apply, for instance, if a vessel were running on the same line before and after the transfer. It was, however, objected that to set up an absolute presumption would sometimes be too severe, and that certain kinds of vessels, as, for example, tank-ships, could, on account of their build, engage only in a certain definite trade. To meet this objection the word "*route*" was then added, so that it would have been necessary that the vessel should be engaged *in the same trade and on the same route*; it was thought that in this way the above contention would have been satisfactorily met. However, the suppression of this case from the list being insisted on, it was agreed to eliminate it. Consequently a transfer of this character now falls within the general rule; it is certainly presumed to be void, but the presumption may be rebutted.

CHAPTER VI.

Enemy Character.

The rule in the Declaration of Paris, that "the neutral flag covers enemy goods, with the exception of contraband of war," corresponds so closely with the advance of civilization, and has taken so firm a hold on the public mind, that it is impossible, in the face of so extensive an application, to avoid seeing in that rule the embodiment of a principle of the common law of nations which can no longer be disputed. The determination of the neutral or enemy character of merchant vessels accordingly decides not only the question of the validity of their capture, but also the fate of the non-contraband goods on board. A similar observation may be made with reference to the neutral or enemy character of goods. No one thinks of contesting to-day the principle according to which "neutral goods, with the exception of contraband of war, are not liable to capture on board an enemy ship." It is, therefore, only in respect of goods found on board an enemy ship that the question whether they are neutral or enemy property arises.

The determination of what constitutes neutral or enemy character thus appears as a development of the two principles laid down in 1856, or rather as a means of securing their just application on practice.

The advantage of deducing from the practices of different countries some clear and simple rules on this subject may be said to need no demonstration. The uncertainty as to the risk of capture, if it does not put an end to trade, is at least the most serious of hindrances to its continuance. A trader ought to know the risks which he runs in putting his goods on board this or that ship, while the underwriter, if he does not know the extent of those risks, is obliged to charge war premiums which are often either excessive or else inadequate.

The rules which form this chapter are, unfortunately, incomplete; certain important points had to be laid aside, as has been already observed in the introductory explanations, and as will be further explained below.

[57] The principle, therefore, is that *the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly*. It is a simple rule which appears satisfactorily to meet the special case of ships, as distinguished from that of other movable property, and notably of the cargo. From more than one point of view, ships may be said to possess an individuality; notably they have a nationality, a national *character*. This attribute of nationality finds visible expression in the right to fly a flag; it has the effect of placing ships under the protection and control of the State to which they belong; it makes them amenable to the sovereignty and to the laws of that State, and liable to requisition, should the occasion arise. Here is the surest test of whether a vessel is really a unit in the merchant marine of a country, and here therefore the best test by which to decide whether her character is neutral or enemy. It is, moreover, preferable to rely exclusively upon this test, and to discard all considerations connected with the personal status of the owner.

The text makes use of the words "the flag which the vessel is entitled to fly"; that expression means, of course, the flag under which, whether she is actually flying it or not, the vessel is entitled to sail according to the municipal laws which govern that right.

Article LVII. safeguards the provisions respecting transfer to another flag, as to which it is sufficient to refer to Articles LV. and LVI.; a vessel may very well have the right to fly a neutral flag, as far as the law of the country to which she claims to belong is concerned, but may be treated as an enemy vessel by a belligerent, because the transfer in virtue of which she has hoisted the neutral flag is annulled by Article LV. or Article LVI.

Lastly, the question was raised whether a vessel loses her neutral character when she is engaged in a trade which the enemy, prior to the war, reserved exclusively for his national vessels; but as has been observed above in connection with the subject of *Unneutral Service*, no agreement was reached, and the question remains an open one, as the second paragraph of Article LVII. is careful to explain.

[58] Unlike ships, goods have no individuality of their own; their neutral or enemy character is made to depend upon the personal status of their owner. This opinion prevailed after an exhaustive study of different views, which inclined towards reliance on the country of origin of the goods, the status of the person at whose risk they are, of the consignee, or of the consignor. The test adopted in Article LVIII. appears, moreover, to be in conformity with the terms of the Declaration of Paris, as also with those of the convention of The Hague of the 18th October 1907, relative to the establishment of an International Prize Court, where the expression *neutral or enemy property* is used (Articles I., III., IV., VIII.).

But it cannot be concealed that Article LVIII. solves no more than a part of the problem, and that the easier part; it is the neutral or enemy character of the owner which determines the character of the goods, but what is to determine the neutral or enemy character of the owner? On this point nothing is said, because it was found impossible to arrive at an agreement. Opinions were divided between *domicile* and *nationality*; no useful purpose will be served by reproducing here the arguments adduced to support the two positions. It was hoped that a compromise might have been reached on the basis of a clause to the following effect:

> "The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy nationality of their owner, or, if he is of no nationality or of double nationality (*i.e.* both neutral and enemy), by his domicile in a neutral or enemy country;
>
> "Provided that goods belonging to a limited liability or joint stock company are considered as neutral or enemy according as the company has its head-quarters in a neutral or enemy country."

But there was no unanimity.

ARTICLE LIX.

Si le caractère neutre de la marchandise trouvée à bord d'un navire ennemi n'est pas établi, la marchandise est présumée ennemie.

ARTICLE LX.

Le caractère ennemi de la marchandise chargée à bord d'un navire ennemi subsiste jusqu'á l'arrivée à destination, nonobstant un transfert intervenu pendant le cours de l'expédition, après l'ouverture des hostilités.

Toutefois, si, antérieurement à la capture, un précédent propriétaire neutre exerce, en cas de faillite du propriétaire ennemi actuel, un droit de revendication légale sur la marchandise, celle-ci reprend le caractère neutre.

CHAPITRE VII.—DU CONVOI.

ARTICLE LXI.

Les navires neutres sous convoi de leur pavillon sont exempts de visite. Le commandant du convoi donne par écrit, à la demande du commandant d'un bâtiment de guerre belligérant, sur le caractère des navires et sur leur chargement, toutes informations que la visite servirait à obtenir.

ARTICLE LXII.

Si le commandant du bâtiment de guerre belligérant a lieu de soupçonner que la religion du commandant du convoi a été surprise, il lui communique ses soupçons. C'est au commandant du convoi seul qu'il appartient en ce cas de procéder à une vérification. Il doit constater le résultat de cette vérification par un procès-verbal dont une copie est remise à l'officier du bâtiment de guerre. Si des faits ainsi constatés justifient, dans l'opinion du commandant du convoi, la saisie d'un ou de plusieurs navires, la protection du convoi doit leur être retirée.

CHAPITRE VIII.—DE LA RÉSISTANCE À LA VISITE.

ARTICLE LXIII.

La résistance opposée par la force à l'exercice légitime du droit d'arrêt, de visite et de saisie entraîne, dans tous les cas, la

ARTICLE LIX.

In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods.[59]

ARTICLE LX.

Enemy goods on board an enemy vessel retain their enemy character until they reach their destination, notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character.[60]

CHAPTER VII.—CONVOY.

ARTICLE LXI.

Neutral vessels under national convoy are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent warship, all information as to the character of the vessels and their cargoes, which could be obtained by search.[61]

ARTICLE LXII.

If the commander of the belligerent warship has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to investigate the matter. He must record the result of such investigation in a report, of which a copy is handed to the officer of the warship. If, in the opinion of the commander of the convoy, the facts shown in the report justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.[62]

CHAPTER VIII.—RESISTANCE TO SEARCH.

ARTICLE LXIII.

Forcible resistance to the legitimate exercise of the right of stoppage, search, and capture, involves in all cases the condemnation of the vessel.

[59] Article LIX. gives expression to the traditional rule according to which goods found on board an enemy vessel are, failing proof to the contrary, presumed to be enemy goods; this is merely a simple presumption, which leaves to the claimant the right, but at the same time the onus, of proving his title.

[60] This provision contemplates the case where goods which were enemy property at the time of dispatch have been the subject of a sale or transfer during the course of the voyage. The ease with which enemy goods might secure protection from the exercise of the right of capture by means of a sale which is made subject to a reconveyance of the property on arrival has always led to a refusal to recognize such transfers. The enemy character subsists.

With regard to the moment from which goods must be considered to acquire and retain the enemy character of their owner, the text has been inspired by the same spirit of equity as governed the convention of The Hague, relative to the status of merchant vessels on the outbreak of hostilities, and by the same desire to protect mercantile operations undertaken in the security of a time of peace. It is only when the transfer takes place after the outbreak of hostilities that it is, so far as the loss of enemy character is concerned, inoperative until the arrival of the goods in question. The date which is taken into consideration here is that of the transfer, and not of the departure of the vessel. For, while the vessel which started before the war began, and remains, perhaps, unaware of the outbreak of hostilities, may enjoy on this account some degree of exemption, the goods may nevertheless possess enemy character; the enemy owner of these goods is in a position to be aware of the state of war, and it is for that very reason that he is likely to seek to evade its consequences.

It was, however, thought right to add what is, if not a limitation, at least a complement agreed to be necessary. In a great number of countries an unpaid vendor has, in the event of the bankruptcy of the buyer, a recognized legal right to recover the goods which have already become the property of the buyer but not yet reached him (*stoppage in transitu*). In such a case the sale is cancelled, and, in consequence of the recovery, the vendor obtains the goods again and is not deemed ever to have ceased to be the owner. This right gives to neutral commerce, in the case of a genuine bankruptcy, a protection too valuable to be sacrificed, and the second paragraph of Article LX. is intended to preserve it.

CHAPTER VII.

Convoy.

The practice of convoy has, in the past, occasionally given rise to grave difficulties and even to conflict. It is, therefore, satisfactory to be able to record the agreement which has been reached upon the subject.

[61] The principle laid down is simple: a neutral vessel under the convoy of a warship of her own nationality is exempt from search. The reason for this rule is that the belligerent cruiser ought to be able to find in the assurances of the commander of the convoy as good a guarantee as would be afforded by the exercise of the right of search itself; in fact, she cannot call in question the assurances given by the official representative of a neutral Government, without displaying a lack of international courtesy. If neutral Governments allow belligerents to search vessels sailing under their flag, it is because they do not wish to be responsible for the supervision of such vessels, and therefore allow belligerents to protect themselves. The situation is altered when a neutral Government consents to undertake that responsibility; the right of search has no longer the same importance.

But it follows from the explanation of the rule respecting convoy that the neutral Government undertakes to afford the belligerents every guarantee that the vessels convoyed shall not take advantage of the protection accorded to them in order to do anything inconsistent with their neutrality, as, for example, to carry contraband, render unneutral service to the belligerent, or attempt to break blockade. There is need, therefore, that a genuine supervision should be exercised from the outset over the vessels which are to be convoyed; and that supervision must be continued throughout the voyage. The Government must act with vigilance so as to prevent all abuse of the right of convoy, and must give to the officer who is put in command of a convoy precise instructions to this effect.

A belligerent cruiser encounters a convoy; she communicates with the commander of the convoy, who must, at her request, give in writing all relevant information about the vessels under his protection. A written declaration is required, because it prevents all ambiguities and misunderstandings, and because it pledges to a greater extent the responsibility of the commander. The object of such a declaration is to make search unnecessary by the mere fact of giving to the cruiser the information which the search itself would have applied.

[62] In the majority of cases the cruiser will be satisfied with the declaration which the commander of the convoy will have given to her, but she may have serious grounds for believing that the confidence of the commander has been abused, as, for example, that a ship under convoy of which the papers are apparently in order and exhibit nothing suspicious is, in fact, carrying contraband cleverly concealed. The cruiser may, in such a case, communicate her suspicions to the commander of the convoy, and an investigation may be considered necessary. If so, it will be made by the commander of the convoy, since it is he alone who exercises authority over the vessels placed under his protection. It appeared, nevertheless, that much difficulty might often be avoided if the belligerent were allowed to be present at this investigation; otherwise he might still suspect, if not the good faith, at least the vigilance and perspicacity of the person who conducted the search. But it was not thought that an obligation to allow the officer of the cruiser to be present at the investigation should be imposed upon the commander of the convoy. He must act as he thinks best; if he agrees to the presence of an officer of the cruiser, it will be as an act of courtesy or good policy. He must in every case draw up a report of the investigation and give a copy to the officer of the cruiser.

Differences of opinion may occur between the two officers, particularly in relation to conditional contraband. The character of a port to which a cargo of corn is destined may be disputed. Is it an ordinary commercial port? or is it a port which serves as a base of supply for the armed forces? The situation which arises out of the mere fact of the convoy must in such a case be respected. The officer of the cruiser can do no more than make his protest, and the difficulty must be settled through the diplomatic channel.

The situation is altogether different if a vessel under convoy is found beyond the possibility of dispute to be carrying contraband. The vessel has no longer a right to protection, since the condition upon which such protection was granted has not been fulfilled. Besides deceiving her own Government, she has tried to deceive the belligerent. She must therefore be treated as a neutral merchant vessel encountered in the ordinary way and searched by a belligerent cruiser. She cannot complain at being exposed to such rigorous treatment, since there is in her case an aggravation of the offence committed by a carrier of contraband.

CHAPTER VIII.

Resistance to Search.

The subject treated in this chapter was not mentioned in the programme submitted by the British Government in February 1908, but it is intimately connected with several of the questions in that programme, and thus attracted the attention of the Conference in the course of its deliberations; and it was thought necessary to frame a rule upon it, the drafting of which presented little difficulty.

A belligerent cruiser encounters a merchant vessel and summons her to stop in order that she may be searched. The vessel summoned does not stop, but tries to avoid the search by flight. The cruiser may employ force to stop her, and the merchant vessel, if she is damaged or sunk, has no right to complain, seeing that she has failed to comply with an obligation imposed upon her by the law of nations.

confiscation du navire. Le chargement est passible du même traitement que subirait le chargement d'un navire ennemi; les marchandises appartenant au capitaine ou au propriétaire du navire sont considérées comme marchandises ennemies.

CHAPITRE IX.—DES DOMMAGES ET INTÉRÊTS.

ARTICLE LXIV.

Si la saisie du navire ou des marchandises n'est pas validée par la juridiction des prises ou si, sans qu'il y ait eu de mise en jugement, la saisie n'est pas maintenue, les intéressés ont droit à des dommages et intérêts, à moins qu'il y ait eu des motifs suffisants de saisir le navire ou les marchandises.

Dispositions Finales.

ARTICLE LXV.

Les dispositions de la présente Déclaration forment un ensemble indivisible.

ARTICLE LXVI.

Les Puissances Signataires s'engagent à s'assurer, dans le cas d'une guerre où les belligérants, seraient tous parties à la présente Déclaration, l'observation réciproque des règles contenues dans cette Déclaration. Elles donneront, en conséquence, à leurs autorités et à leurs forces armées les instructions nécessaires et prendront les mesures qu'il conviendra pour en garantir l'application par leurs tribunaux, spécialement par leurs tribunaux de prises.

ARTICLE LXVII.

La présente Déclaration sera ratifiée aussitôt que possible.

Les ratifications seront déposées à Londres.

Le premier dépôt de ratifications sera constaté par un procès-verbal signé par les Représentants des Puissances qui y prennent part, et par le Principal Secrétaire d'État de Sa Majesté Britannique au Département des Affaires Étrangères.

Les dépôts ultérieurs de ratifications se feront au moyen d'une notification écrite adressée au Gouvernement Britannique et accompagnée de l'instrument de ratification.

The cargo is liable to the same treatment as the cargo of an enemy vessel. Goods belonging to the master or owner of the vessel are treated as enemy goods.[63]

CHAPTER IX.—COMPENSATION.

ARTICLE LXIV.

If the capture of a vessel or of goods is not upheld by the prize court, or if the prize is released without any judgment being given, the parties interested have the right to compensation, unless there were good reasons for capturing the vessel or goods.[64]

Final Provisions.

ARTICLE LXV.

The provisions of the present Declaration must be treated as a whole, and cannot be separated.[65]

ARTICLE LXVI.

The Signatory Powers undertake to ensure the mutual observance of the rules contained in the present Declaration in any war in which all the belligerents are parties thereto. They will therefore issue the necessary instructions to their authorities and to their armed forces, and will take such measures as may be required in order to ensure that it will be applied by their courts, and more particularly by their prize courts.[66]

ARTICLE LXVII.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited in London.

The first deposit of ratifications shall be recorded in a Protocol signed by the Representatives of the Powers taking part therein, and by His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the British Government, and accompanied by the instrument of ratification.

If the vessel is stopped, and it is shown that it was only in order to escape the inconvenience of being searched that recourse was had to flight, and that beyond this she had done nothing contrary to neutrality, she will not be punished for her attempt at flight. If, on the other hand, it is established that the vessel has contraband on board, or that she has in some way or other failed to comply with her duty as a neutral, she will suffer the consequences of her infraction of neutrality, but in this case as in the last, she will not undergo any punishment for her attempt at flight. Expression was given to the contrary view, namely, that a ship should be punished for an obvious attempt at flight as much as for forcible resistance. It was suggested that the prospect of having the escaping vessel condemned as good prize would influence the captain of the cruiser to do his best to spare her. But in the end this view did not prevail.

[63] The situation is different if forcible resistance is made to any legitimate action by the cruiser. The vessel commits an act of hostility and must, from that moment, be treated as an enemy vessel; she will therefore be subject to condemnation, although the search may not have shown that anything contrary to neutrality had been done. So far no difficulty seems to arise.

What must be decided with regard to the cargo? The rule which appeared to be the best is that according to which the cargo will be treated like the cargo on board an enemy vessel. This assimilation involves the following consequences: a neutral vessel which has offered resistance becomes an enemy vessel and the goods on board are presumed to be enemy goods. Neutrals who are interested may claim their property, in accordance with Article III. of the Declaration of Paris, but enemy goods will be condemned, since the rule that *the flag covers the goods* cannot be adduced, because the captured vessel on board which they are found is considered to be an enemy vessel. It will be noticed that the right to claim the goods is open to all neutrals, even to those whose nationality is that of the captured vessel; it would seem to be an excess of severity to make such persons suffer for the action of the master. There is, however, an exception as regards the goods which belong to the owner of the vessel; it seems natural that he should bear the consequences of the acts of his agent. His property on board the vessel is therefore treated as enemy goods. *A fortiori* the same rule applies to the goods belonging to the master.

CHAPTER IX.

Compensation.

This chapter is of very general application, inasmuch as the provisions which it contains are operative in all the numerous cases in which a cruiser may capture a vessel or goods.

[64] A cruiser has captured a neutral vessel, on the ground, for example, of carriage of contraband or breach of blockade. The prize court releases the vessel declaring the capture to be void. This decision alone is evidently not enough to indemnify the parties interested for the loss incurred in consequence of the capture, and this loss may have been considerable, since the vessel has been during a period, which may often be a very long one, prevented from engaging in her ordinary trade. May these parties claim to be compensated for this injury? Reason requires that the affirmative answer should be given, if the injury has been undeserved, that is to say, if the capture was not brought about by some fault of the parties. It may, indeed, happen that there was good reason for the capture, because the master of the vessel searched did not produce evidence which ought in the ordinary course to have been available, and which was only furnished at a later stage. In such a case it would be unjust that compensation should be awarded. On the other hand, if the cruiser has really been at fault, if the vessel has been captured when there were not good reasons for doing so, it is just that compensation should be granted.

It may also happen that a vessel which has been captured and taken into a port is released by the action of the executive without the intervention of a prize court. The existing practice, under such circumstances, is not uniform. In some countries the prize court has no jurisdiction unless there is a question of validating a capture, and cannot adjudicate on a claim for compensation based upon the ground that the capture would have been held unjustifiable; in other countries the prize court would have jurisdiction to entertain a claim of this kind. On this point, therefore, there is a difference which is not altogether equitable, and it is desirable to lay down a rule which will produce the same result in all countries. It is reasonable that every capture effected without good reasons should give to the parties interested a right to compensation, without its being necessary to draw any distinction between the cases in which the capture has or has not been followed by a decision of a prize court; and this argument is all the more forcible when the capture may have so little justification that the vessel is released by the action of the executive. A provision in general terms has therefore been adopted, which is capable of covering all cases of capture.

It should be observed that in the text no reference is made to the question whether the national tribunals are competent to adjudicate on a claim for compensation. In cases where proceedings are taken against the property captured, no doubt upon this point can be entertained. In the course of the proceedings taken to determine the validity of a capture the parties interested have the opportunity of making good their right to compensation, and, if the national tribunal does not give them satisfaction, they can apply to the International Prize Court. If, on the other hand, the action of the belligerent has been confined to the capture, it is the law of the belligerent captor which decides whether there are tribunals competent to entertain a demand for compensation, and, if so, what are those tribunals; the International Court has not, according to the convention of The Hague, any jurisdiction in such a case. From an international point of view, the diplomatic channel is the only one available for making good such a claim, whether the cause for complaint is founded on a decision actually delivered, or on the absence of any tribunal having jurisdiction to entertain it.

The question was raised as to whether it was necessary to draw a distinction between the direct and the indirect losses suffered by vessel or goods. The best course appeared to be to leave the prize court free to estimate the amount of compensation due, which will vary according to the circumstances and cannot be laid down in advance in rules going into minute details.

For the sake of simplicity, mention has only been made of the vessel, but what has been said applies of course to cargo captured and afterwards released. Innocent goods on board a vessel which has been captured suffer, in the same way, all the inconvenience which attends the capture of the vessel; but if there was good cause for capturing the vessel, whether the capture has subsequently been held to be valid or not, the owners of the cargo have no right to compensation.

It is perhaps useful to indicate certain cases in which the capture of a vessel would be justified, whatever might be the ultimate decision of the prize court. Notably, there is the case where some or all of the ship's papers have been thrown overboard, suppressed, or intentionally destroyed on the initiative of the master or one of the crew or passengers. There is in such case an element which will justify any suspicion and afford an excuse for capturing the vessel, subject to the master's ability to account for his action before the prize court. Even if the court should accept the explanation given and should not find any reason for condemnation, the parties interested cannot hope to recover compensation.

An analogous case would be that in which there were found on board two sets of papers, or false or forged papers, if this irregularity were connected with circumstances calculated to contribute to the capture of the vessel.

It appeared sufficient that these cases in which there would be a reasonable excuse for the capture should be mentioned in the present Report, and should not be made the object of express provisions, since, otherwise, the mention of these two particular cases might have led to the supposition that they were the only cases in which a capture could be justified.

Copie certifiée conforme du procès-verbal relatif au premier dépôt des ratifications, des notifications mentionnées à l'alinéa précédent, ainsi que des instruments de ratification qui les accompagnent, sera immédiatement, par les soins du Gouvernement Britannique et par la voie diplomatique, remise aux Puissances Signataires. Dans les cas visés par l'alinéa précédent, le dit Gouvernement leur fera connaître en même temps la date à laquelle il a reçu la notification.

ARTICLE LXVIII.

La présente Déclaration produira effet, pour les Puissances qui auront participé au premier dépôt de ratifications, soixante jours après la date du procès-verbal de ce dépôt et, pour les Puissances qui ratifieront ultérieurement, soixante jours après que la notification de leur ratification aura été reçue par le Gouvernement Britannique.

ARTICLE LXIX.

S'il arrivait qu'une des Puissances Signataires voulût dénoncer la présente Déclaration, elle ne pourra le faire que pour la fin d'une période de douze ans commençant à courir soixante jours après le premier dépôt de ratifications et, ensuite, pour la fin de périodes successives de six ans, dont la première commencera à l'expiration de la période de douze ans.

La dénonciation devra être, au moins un an à l'avance, notifiée par écrit au Gouvernement Britannique, qui en donnera connaissance à toutes les autres Puissances.

Elle ne produira ses effets qu'à l'égard de la Puissance qui l'aura notifiée.

ARTICLE LXX.

Les Puissances réprésentées à la Conférence Navale de Londres, attachant un prix particulier à la reconnaissance générale des règles adoptées par elles, expriment l'espoir que les Puissances qui n'y étaient pas représentées adhéreront à la présente Déclaration. Elles prient le Gouvernement Britannique de vouloir bien les inviter à le faire.

La Puissance qui désire adhérer notifie par écrit son intention au Gouvernement Britannique, en lui transmettant l'acte d'adhésion, qui sera déposé dans les archives dudit Gouvernement.

Ce Gouvernement transmettra immédiatement à toutes le autres Puissances copie certifiée conforme de la notification, ainsi que de l'acte d'adhésion, en indiquant la date à laquelle il a reçu la notification. L'adhésion produira effet soixante jours après cette date.

A duly certified copy of the Protocol relating to the first deposit of ratifications, and of the notifications mentioned in the preceding paragraph as well as of the instruments of ratification which accompany them, shall be immediately sent by the British Government, through the diplomatic channel, to the Signatory Powers. The said Government shall, in the cases contemplated in the preceding paragraph, inform them at the same time of the date on which it received the notification.[67]

ARTICLE LXVIII.

The present Declaration shall take effect, in the case of the Powers which were parties to the first deposit of ratifications, sixty days after the date of the Protocol recording such deposit, and, in the case of the Powers which shall ratify subsequently, sixty days after the notification of their ratification shall have been received by the British Government.[68]

ARTICLE LXIX.

In the event of one of the Signatory Powers wishing to denounce the present Declaration, such denunciation can only be made to take effect at the end of a period of twelve years, beginning sixty days after the first deposit of ratifications, and, after that time, at the end of successive periods of six years, of which the first will begin at the end of the period of twelve years.

Such denunciation must be notified in writing, at least one year in advance, to the British Government, which shall inform all the other Powers.

It will only operate in respect of the denouncing Power.[69]

ARTICLE LXX.

The Powers represented at the London Naval Conference attach particular importance to the general recognition of the rules which they have adopted, and therefore express the hope that the Powers which were not represented there will accede to the present Declaration. They request the British Government to invite them to do so.

A Power which desires to accede shall notify its intention in writing to the British Government, and transmit simultaneously the act of accession, which will be deposited in the archives of the said Government.

The said Government shall forthwith transmit to all the other Powers a duly certified copy of the notification, together with the act of accession, and communicate the date on which such notification was received. The accession takes effect sixty days after such date.

Such then are the principles of international law to which the Naval Conference has sought to give recognition as being fitted to regulate in practice the intercourse of nations on certain important questions in regard to which precise rules have hitherto been wanting. The Conference has thus taken up the work of codification begun by the Declaration of Paris of 1856. It has worked in the same spirit as the Second Peace Conference, and, taking advantage of the labours accomplished at The Hague, it has been able to solve some of the problems which, owing to the lack of time, that Conference was compelled to leave unsolved. Let us hope that it may be possible to say that those who have drawn up the Declaration of London of 1909 are not altogether unworthy of their predecessors of 1856 and 1907.

Final Provisions.

These provisions have reference to various questions relating to the effect of the Declaration, its ratification, its coming into force, its denunciation, and the accession of unrepresented Powers.

[65] This Article is of great importance, and is in conformity with that which was adopted in the Declaration of Paris.

The rules contained in the present Declaration relate to matters of great importance and great diversity. They have not all been accepted with the same degree of eagerness by all the Delegations. Concessions have been made on one point in consideration of concessions obtained on another. The whole, all things considered, has been recognized as satisfactory, and a legitimate expectation would be falsified if one Power might make reservations on a rule to which another Power attached particular importance.

[66] According to the engagement resulting from this Article, the Declaration applies to the relations between the Signatory Powers when the belligerents are likewise parties to the Declaration.

It will be the duty of each Power to take the measures necessary to ensure the observance of the Declaration. These measures may vary in different countries, and may or may not involve the intervention of the legislature. The matter is one of national legal requirements.

It should be observed that neutral Powers also may find themselves in a position of having to give instructions to their authorities, notably to the commanders of convoys as previously explained.

[67] This provision, of a purely formal character, needs no explanation. The wording adopted at The Hague by the Second Peace Conference has been borrowed.

[68] *The present Declaration shall take effect, in the case of the Powers which were parties to the first deposit of ratifications, sixty days after the date of the Protocol recording such deposit, and, in the case of the Powers which shall ratify subsequently, sixty days after the notification of their ratification shall have been received by the British Government.*

[69] It follows implicitly from Article LXIX. that the Declaration is of indefinite duration. The periods after which denunciation is allowed have been fixed on the analogy of the convention for the establishment of an International Prize Court.

La situation des Puissances adhérentes sera, en tout ce qui concerne cette Déclaration, assimilée à la situation des Puissances Signataires.

ARTICLE LXXI.

La présente Déclaration, qui portera la date du 26 Février 1909, pourra être signée à Londres jusqu'au 30 Juin 1909, par les Plénipotentiaires des Puissances représentées à la Conférence Navale.

En foi de quoi, les Plénipotentiaires ont revêtu la présente Déclaration de leurs signatures et y ont apposé leurs cachets.

Fait à Londres, le vingt-six Février mil neuf cent neuf, en un seul exemplaire, qui restera déposé dans les archives du Gouvernement Britannique et dont des copies, certifiées conformes, seront remise par la voie diplomatique aux Puissances représentées à la Conférence Navale.

In respect of all matters concerning this Declaration, acceding Powers shall be on the same footing as the Signatory Powers.[70]

ARTICLE LXXI.

The present Declaration, which bears the date of the 26th February 1909, may be signed in London up till the 30th June 1909, by the Plenipotentiaries of the Powers represented at the Naval Conference.

In faith whereof the Plenipotentiaries have signed the present Declaration, and have thereto affixed their seals.

Done at London, the twenty-sixth day of February, one thousand nine hundred and nine, in a single original, which shall remain deposited in the archives of the British Government, and of which duly certified copies shall be sent through the diplomatic channel to the Powers represented at the Naval Conference.[71]

[*Here follow the Signatures.*]

[70] The Declaration of Paris also contained an invitation to the Powers which were not represented to accede to the Declaration. The official invitation in this case, instead of being made individually by each of the Powers represented at the Conference, may more conveniently be made by Great Britain acting in the name of all the Powers.

The procedure for accession is very simple. The fact that the acceding Powers are placed on the same footing in every respect as the signatory Powers of course involves compliance by the former with Article LXV. A Power can accede only to the whole, but not merely to a part, of the Declaration.

[71] As at The Hague, account has been taken of the situation of certain Powers the Representatives of which may not be in a position to sign the Declaration at once, but which desire nevertheless to be considered as signatory, and not as acceding, Powers.

It is scarcely necessary to say that the *Plenipotentiaries of the Powers* referred to in Article LXXI. are not necessarily those who were, as such, delegates at the Naval Conference.

FINAL PROTOCOL OF THE LONDON NAVAL CONFERENCE

(*Translation.*[1])

Protocole de Clôture.

La Conférence Navale de Londres, convoquée par le Gouvernement de Sa Majesté Britannique, s'est réunie, le 4 Décembre 1908, au Ministère des Affaires Étrangères, à l'effet de déterminer les principes généralement reconnus du droit international dans le sens de l'Article VII. de la Convention signée à La Haye le 18 Octobre 1907, pour l'établissement d'une Cour internationale des prises.

Les Puissances, dont l'énumération suit, ont pris part à cette Conférence, pour laquelle elles avaient désigné les Délégués nommés ci-après :

L'Allemagne :

M. Kriege, Conseiller Actuel Intime de Légation et Jurisconsulte au Département des Affaires Étrangères, Membre de la Cour Permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. le Capitaine de vaisseau Starke, Attaché naval à l'Ambassade Impériale à Paris, Premier Délégué naval ;

M. Göppert, Conseiller de Légation et Conseiller adjoint au Département des Affaires Étrangères, Délégué juridique ;

M. le Capitaine de corvette de Bülow, Deuxième Délégué naval.

Les États-Unis d'Amérique :

M. le Contre-Amiral Charles H. Stockton, Délégué Plénipotentiaire ;

M. George Grafton Wilson, Professeur à l'Université de Brown, et Conférencier en Droit international à l'École Navale de Guerre et à l'Université de Harvard, Délégué Plénipotentiaire.

L'Autriche-Hongrie :

Son Excellence M. Constantin Théodore Dumba, Conseiller Intime de Sa Majesté Impériale et Royale Apostolique, Envoyé Extraordinaire et Ministre Plénipotentiaire, Délégué Plénipotentiaire ;

M. le Contre-Amiral Baron Léopold de Jedina-Palombini, Délégué naval ;

M. le Baron Alexandre Hold de Ferneck, Attaché au Ministère de la Maison Impériale et Royale et des Affaires Étrangères, Professeur agrégé à l'Université de Vienne, Délégué adjoint.

L'Espagne :

M. Gabriel Maura y Gamazo, Comte de la Mortera, Député au Parlement, Délégué Plénipotentiaire ;

M. le Capitaine de vaisseau R. Estrada, Délégué naval.

La France :

M. Louis Renault, Ministre Plénipotentiaire, Professeur à la Faculté de Droit de Paris, Jurisconsulte du Ministère des Affaires Étrangères, Membre de l'Institut de France, Membre de la Cour Permanente d'Arbitrage, Délégué Plénipotentiaire ;

M. le Contre-Amiral Le Bris, Délégué technique ;

M. H. Fromageot, Avocat à la Cour d'Appel de Paris, Délégué technique ;

M. le Comte de Manneville, Secrétaire d'Ambassade de Première classe, Délégué.

Final Protocol.

The London Naval Conference, called together by His Britannic Majesty's Government, assembled at the Foreign Office on the 4th December 1908, with the object of laying down the generally recognized principles of international law in accordance with Article VII. of the Convention signed at The Hague on the 18th October 1907, for the establishment of an International Prize Court.

The Powers enumerated below took part in this Conference, at which they appointed as their Representatives the following Delegates :

[1] The final Protocol was signed in the French language only.

La Grande-Bretagne :

M. le Comte de Desart, K.C.B., Procureur-Général du Roi, Délégué Plénipotentiaire ;
Le Contre-Amiral Sir Charles L. Ottley, K.C.M.G., M.V.O., R.N., Délégué ;
M. le Contre-Amiral Edmond J. W. Slade, M.V.O., R.N., Délégué ;
M. Eyre Crowe, C.B., Délégué ;
M. Cecil Hurst, C.B., Délégué.

L'Italie :

M. Guido Fusinato, Conseiller d'État, Député au Parlement, ancien Ministre de l'Instruction Publique, Membre de la Cour Permanente d'Arbitrage, Délégué Plénipotentiaire ;
M. le Comte Giovanni Lovatelli, Capitaine de vaisseau, Délégué naval ;
M. Arturo Ricci-Busatti, Conseiller de Légation, Chef du Bureau du Contentieux au Ministère des Affaires Étrangères, Délégué adjoint.

Le Japon :

M. le Vice-Amiral Baron Toshiatsu Sakamoto, Chef du Département de l'Education navale, Délégué Plénipotentiaire ;
M. Enjiro Yamaza, Conseiller à l'Ambassade Impériale à Londres, Délégué Plénipotentiaire ;
M. le Capitaine de vaisseau Sojiro Tochinai, Attaché naval à l'Ambassade Impériale à Londres, Délégué naval ;
M. Tadao Yamakawa, Conseiller au Ministère Impérial de la Marine, Délégué technique ;
M. Sakutaro Tachi, Professeur à l'Université Impériale de Tôkiô, Délégué technique ;
M. Michikazu Matsuda, Deuxième Secrétaire à la Légation Impériale à Bruxelles, Délégué technique.

Les Pays-Bas :

M. le Vice-Amiral Jonkheer J. A. Roëll, Aide-de-camp de sa Majesté la Reine en Service Extraordinaire, ancien Ministre de la Marine, Délégué Plénipotentiaire ;
M. le Jonkheer L. H. Ruyssenaers, Envoyé Extraordinaire et Ministre Plénipotentiaire, ancien Secrétaire-Général à la Cour Permanente d'Arbitrage, Délégué Plénipotentiaire ;
M. H. G. Surie, Lieutenant de vaisseau de Première classe, Délégué naval.

La Russie :

M. le Baron Taube, Docteur en droit, Conseiller au Ministère Impérial des Affaires Étrangères, Professeur de Droit international à l'Université de Saint-Pétersbourg, Délégué Plénipotentiaire ;
M. le Capitaine de vaisseau Behr, Attaché naval à Londres, Délégué naval ;
M. le Colonel de l'Amirauté Ovtchinnikow, Professeur de Droit international à l'Académie de la Marine, Délégué naval ;
M. le Baron Nolde, Fonctionnaire de Sixième classe pour Missions spéciales près le Ministre des Affaires Étrangères, Professeur de Droit international à l'Institut Polytechnique de Saint-Pétersbourg, Délégué technique ;
M. Linden, Chef de Section au Ministère Impérial du Commerce et de l'Industrie, Délégué technique.

Dans une série de réunions, tenues du 4 Décembre 1908 au 26 Février 1909, la Conférence a arrêté, pour être soumis à la signature des Plénipotentiaires, la *Déclaration relative au droit de la guerre maritime*, dont le texte est annexé au présent Protocole.

En outre, le vœu suivant a été adopté par les Délégués des Puissances qui ont signé ou qui ont exprimé l'intention de signer la Convention de La Haye en date du 18 Octobre 1907 pour l'établissement d'une Cour internationale des prises :

Les Délégués des Puissances représentées à la Conférence Navale et qui ont signé ou qui ont exprimé l'intention de signer la Convention de La Haye en date du 18 *Octobre* 1907 *pour l'établissement d'une Cour internationale des prises, considérant les difficultés d'ordre constitutionnel qui, pour*

In a series of sittings held from the 4th December 1908 to the 26th February 1909, the Conference has drawn up for signature by the Plenipotentiaries the *Declaration concerning the laws of naval war*, the text of which is annexed to the present Protocol.

Furthermore, the following wish has been recorded by the Delegates of those Powers which have signed or expressed the intention of signing the Convention of The Hague of the 18th October 1907, for the establishment of an International Prize Court :

The Delegates of the Powers represented at the Naval Conference which have signed or expressed the intention of signing the Convention of The Hague of the 18th October 1907, *for the establishment of an International Prize Court, having regard to the difficulties of a constitutional*

certains États, s'opposent à la ratification, sous sa forme actuelle, de cette Convention, sont d'accord pour signaler à leurs Gouvernements respectifs l'avantage que présenterait la conclusion d'un arrangement en vertu duquel lesdits États auraient, lors du dépôt de leurs ratifications, la faculté d'y joindre une réserve portant que le droit de recourir à la Cour internationale des prises, à propos des décisions de leurs tribunaux nationaux, se présentera comme une action directe en indemnité, pourvu toutefois que l'effet de cette réserve ne soit pas de nature à porter atteinte aux droits garantis par ladite Convention, soit aux particuliers, soit à leurs Gouvernements, et que les termes de la réserve forment l'objet d'une entente ultérieure entre les Puissances Signataires de la même Convention.

En foi de quoi les Plénipotentiaires et les Délégués remplaçant les Plénipotentiaires qui ont déjà dû quitter Londres ont signé le présent Protocole.

Fait à Londres le vingt-six Février mil neuf cent neuf, en un seul exemplaire, qui sera déposé dans les archives du Gouvernement Britannique et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances représentées à la Conférence Navale.

nature which, in some States, stand in the way of the ratification of that Convention in its present form, agree to call the attention of their respective Governments to the advantage of concluding an arrangement under which such States would have the power, at the time of depositing their ratifications, to add thereto a reservation to the effect that resort to the International Prize Court in respect of decisions of their National Tribunals shall take the form of a direct claim for compensation, provided always that the effect of this reservation shall not be such as to impair the rights secured under the said Convention either to individuals or to their Governments, and that the terms of the reservation shall form the subject of a subsequent understanding between the Powers signatory of that Convention.

In faith whereof the Plenipotentiaries and the Delegates representing those Plenipotentiaries who have already left London have signed the present Protocol.

Done at London the twenty-sixth day of February, one thousand nine hundred and nine, in a single original, which shall be deposited in the archives of the British Government, and of which duly certified copies shall be sent through the diplomatic channel to the Powers represented at the Naval Conference.

[*Here follow the Signatures.*]

3. GENERAL TREATY OF ARBITRATION BETWEEN ITALY AND THE ARGENTINE REPUBLIC

(*September* 18, 1907)

(Traité général d'arbitrage entre l'Italie et la Republique Argentine)

Sa Majesté le Roi d'Italie et Son Excellence le Président de la République Argentine, s'inspirant des principes de la Convention pour le règlement pacifique des conflits internationaux conclue à La Haye le 29 Juillet 1899 et désirant, conformément à l'esprit de l'Article XIX. de ladite Convention, consacrer par un accord général, le principede l'arbitrage obligatoire dans leurs rapports réciproques, ont résolu de conclure une Convention à cet effet, et ont nommé pour leurs Plénipotentiaires Leurs Délégués plénipotentiaires à la Deuxième Conférence de La Paix, savoir :

SA MAJESTE LE ROI D'ITALIE : Son Excellence le Comte Joseph Tornielli Brusati di Vergano, Sénateur du Royaume, Son Ambassadeur près le Président de la République française, Membre de la Cour permanente d'arbitrage ; Son Excellence M. Guido Pompilj, Député au Parlement national, son Sous Secrétaire d'État pour les Affaires Étrangères ; M. Guido Fusinato, Député au Parlement national, Membre du Conseil d'État ;

SON EXCELLENCE LE PRESIDENT DE LA RÉPUBLIQUE ARGENTINE : Son Excellence M. Roque Saenz-Peña, ancien Ministre des Affaires Étrangères, Son Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté le Roi d'Italie et près la Confédération Suisse, Membre de la Cour Permanente d'arbitrage ; Son Excellence M. Luis Maria Drago, ancien Ministre des Affaires Étrangères, Député au Congrès national, Membre de la Cour permanente d'arbitrage ; Son Excellence Carlos Rodriguez Larreta, ancien Ministre des Affaires Étrangères, Membre de la Cour permanente d'arbitrage ;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes :

ARTICLE I.

Les Hautes Parties contractantes s'engagent à soumettre à l'arbitrage toutes contestations de quelque nature qu'elles soient, qui pourraient surgir entre Elles et qui n'auraient pu être

His Majesty the King of Italy and His Excellency the President of the Argentine Republic, inspired by the principles of the Convention for the peaceful settlement of international conflicts concluded at The Hague, July 29, 1899, and desiring, in accordance with the spirit of Article XIX. of the said Convention, to consecrate, by a general understanding, the principle of compulsory arbitration in their mutual relations, have decided to conclude a Convention to this effect, and have named as their Plenipotentiaries their plenipotentiary Delegates at the Second Peace Conference, namely :

His Majesty the King of Italy : His Excellency Count Joseph Tornielli Brusati di Vergano, Senator of the Kingdom, His Ambassador to the President of the French Republic, Member of the permanent Arbitration Court ; His Excellency M. Guido Pompilj, Member of the national Parliament, His Under-Secretary of State for Foreign Affairs ; M. Guido Fusinato, Member of the national Parliament, Member of the Council of State ;

His Excellency the President of the Argentine Republic : His Excellency M. Roque Saens-Peña, late Minister of Foreign Affairs, His Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Italy and to the Swiss Confederation, Member of the permanent Court of Arbitration ; His Excellency M. Luis Maria Drago, late Minister for Foreign Affairs, Member of the national Congress, Member of the permanent Court of Arbitration ; His Excellency Carlos Rodriguez Larreta, late Minister for Foreign Affairs, Member of the permanent Court of Arbitration ;

Who, having communicated their full Powers, found in good and due form, have decided upon the following provisions :

ARTICLE I.

The High Contracting Parties undertake to submit to arbitration all differences, whatever their nature, which may arise between them, and which have

résolues par les voies diplomatiques, à l'exception de celles qui touchent aux dispositions constitutionnelles en vigueur dans l'un ou l'autre État.

Dans les différends pour lesquels, d'après la loi territoriale, l'autorité judiciaire serait compétente, les Parties contractantes ont le droit de ne soumettre le litige au jugement arbitral qu' après que la juridiction nationale aura statué définitivement.

Seront en tout cas soumises à l'arbitrage les contestations suivantes :

1. Les différends concernant l'interprétation et l'application des Conventions conclues ou à conclure entre les Parties contractantes ;
2. Les différends concernant l'interprétation et l'application d'un principe de droit international.

La question de savoir si une contestation constitue ou non un différend prévu aux numéros 1 et 2 ci-dessus, sera également soumise à l'arbitrage.

Sont expressément soustraites à l'arbitrage les contestations concernant la nationalité des individus.

ARTICLE II.

Dans chaque cas particulier, les Hautes Parties contractantes signent un compromis spécial déterminant l'objet du litige, et, s'il y a lieu, le siège du tribunal, la langue dont il fera usage et celles dont l'emploi sera autorisé devant lui, le montant de la somme que chaque Partie aura à déposer à titre d'avance pour les frais, la forme et les délais à observer en ce qui concerne la constitution du tribunal et il échange des mémoires et des documents et généralement toutes les conditions dont Elles seront convenues.

A défaut de compromis, les arbitres, nommés d'après les règles établies dans les Articles III. et IV. du présent traité, jugent sur la base des prétentions qui leur seront soumises.

Au surplus et en l'absence d'entente spéciale, les dispositions établies par la Convention pour le règlement pacifique des conflits internationaux, signée à La Haye le 29 Juillet 1899, seront appliquées, sous réserve des additions et des modifications contenues dans les articles suivants.

ARTICLE III.

Sauf stipulation contraire, le tribunal est composé de trois membres. Les deux Parties nomment chacune un arbitre pris de préférence dans la liste des membres de la Cour permanente établie par ladite Convention de La Haye, et s'entendent sur le choix du surarbitre. Si l'accord ne se fait pas sur ce point, les

not been solved through the diplomatic channel, except those involving constitutional provisions in force in either of the States.

As regards differences for which, according to the territorial law, the judicial authority would be competent, the Contracting Parties have the right not to submit the matter in dispute to arbitral judgment until the national jurisdiction shall have given a final decision.

The following differences shall in any case be submitted to arbitration :

(1) Differences concerning the interpretation and application of Conventions concluded, or which may hereafter be concluded, between the Contracting Parties ;

(2) Differences concerning the interpretation and application of a principle of international law.

The question of whether a difference is or is not provided for in (1) and (2) above mentioned, shall also be submitted to arbitration.

Cases concerning the nationality of individuals are expressly excluded from arbitration.

ARTICLE II.

In each particular case the High Contracting Parties shall sign a special *compromis* setting out the matter at issue, and, if the case arises, the seat of the tribunal, the language which it shall use, and those the use of which shall be authorised before it, the amount which each Party shall deposit on account of costs, the forms and time limits to be observed as regards the constitution of the tribunal and the exchange of memoirs and documents, and generally all the conditions on which they are agreed.

In default of a *compromis*, the arbitrators, appointed according to the rules set forth in Articles III. and IV. of the present treaty, shall decide on the basis of the claim submitted to them.

Furthermore, and in the absence of any special agreement, the provisions of the Convention for the peaceful settlement of international conflicts, signed at The Hague, July 29, 1899, shall be applied subject to the additions and modifications contained in the following articles.

ARTICLE III.

Subject to contrary stipulations, the tribunal shall be composed of three members. The two Parties shall each appoint an arbitrator, selected preferably from the list of members of the permanent Court established by the said Hague Convention, and shall agree upon the choice of an umpire. If

Parties s'adresseront à une tierce Puissance pour qu'Elle fasse cette désignation, et, à défaut d'accord même à ce sujet, une requête sera adressée à cette fin à Sa Majesté La Reine des Pays-Bas ou à Ses Successeurs.

Le surarbitre est choisi dans la liste des membres de ladite Cour permanente. Il ne peut être le ressortissant d'aucune des Parties, ni être domicilié ou résident dans leurs territoires.

La même personne ne peut pas siéger comme surarbitre dans deux affaires successives.

ARTICLE IV.

Dans le cas où les Parties ne s'entendraient pas pour la constitution du tribunal, les fonctions arbitrales seront conférées à un arbitre unique, qui, sauf stipulation contraire, sera nommé d'après les règles établies dans l'article précédent pour la nomination du surarbitre.

ARTICLE V.

La sentence arbitrale est rendue à la majorité des voix, sans qu'il y ait lieu de mentionner le dissentiment éventuel d'un arbitre.

La sentence est signée par le Président et par le greffier, ou par l'arbitre unique.

ARTICLE VI.

La sentence arbitrale décide définitivement et sans appel la contestation.

Toutefois le Tribunal ou l'arbitre qui a prononcé la sentence peut, avant que celle—ci soit exécutée, être sai si d'une demande en révision dans les cas suivans :

1. S'il a été jugé sur pièces fausses ou erronées ;
2. Si la sentence se trouve, en tout ou en partie, viciée par une erreur de fait qui résulte des actes ou documents de la cause.

ARTICLE VII.

Tout différend qui pourrait surgir entre les Parties concernant l'interpretation ou l'éxécution de la sentence, sera soumis au jugement du tribunal ou de l'arbitre qui l'a rendue.

ARTICLE VIII.

Le présent traité est établi en langue italienne, espagnole et française.

Les Hautes Parties contractantes déclarent considérer en cas de doute, le texte français comme faisant foi.

they cannot agree upon the point, the Parties shall apply to the third Power to make such appointment; and if they cannot agree even upon that subject, application shall be addressed for this purpose to Her Majesty the Queen of the Netherlands or to her Successors.

The umpire shall be selected from the list of members of the said permanent Court. He cannot be the citizen or subject of any of the Parties, or domiciled or resident in their territories.

The same person shall not act as umpire in two successive cases.

ARTICLE IV.

In case the Parties should not agree upon the constitution of the tribunal, the duties of arbitrator shall be conferred on a single arbitrator, who, subject to contrary stipulation, shall be appointed according to the rules set out in the preceding Article for the appointment of the umpire.

ARTICLE V.

The arbitration award shall be given by the majority, without its being necessary to mention the possible dissent of an arbitrator.

The award shall be signed by the President and by the Registrar, or by the single arbitrator.

ARTICLE VI.

The arbitration award decides the matter at issue finally and without appeal.

Nevertheless, an application for revision may be lodged with the tribunal or arbitrator who has given the award, and before the latter has been executed, in the following cases:

(1) If it has been decided upon false or erroneous documents;
(2) If the sentence is, in whole or in part, vitiated by an error of fact resulting from the documents or papers of the cause.

ARTICLE VII.

Any difference which may arise between the Parties concerning the interpretation or execution of the award shall be submitted to the tribunal, or to the arbitrator who has delivered it.

ARTICLE VIII.

The present treaty shall be made in Italian, Spanish, and French.

The High Contracting Parties agree to consider, in case of doubt, the French text as binding.

ARTICLE IX.

Le présent traité sera ratifié, et les ratifications seront échangées à Rome aussitôt que possible.

Il aura une durée de dix ans à partir de l'échange des ratifications. S'il n'est dénoncé six mois avant son échéance, il sera censé renouvelé pour une nouvelle période de dix ans, et ainsi de suite.

En foi de quoi les Plénipotentiaires ont signé le présent traité et l'ont revêtu de leurs cachets.

Fait et signé à La Haye en double exemplaire, dans la salle des séances de la Deuxième Conférence de la Paix, le dix huit Septembre mil neuf cent sept.

ARTICLE IX.

The present treaty shall be ratified, and the ratifications shall be exchanged at Rome as soon as possible.

It shall be valid for a period of ten years from the date of the exchange of ratifications. Unless it is denounced six months before its expiry, it shall be considered as renewed for a further period of ten years, and so on.

In faith of which the Plenipotentiaries have signed the present treaty, and have thereunto affixed their seals.

Made and signed at The Hague in duplicate, in Meeting Hall of the Second Peace Conference, September 18, 1907.

4. GENERAL TREATY OF ARBITRATION BETWEEN ITALY AND THE UNITED STATES OF MEXICO

(*October* 16, 1907)

(Traité général d'arbitrage entre l'Italie et les États Unis Mexicains)

Sa Majesté le Rio d'Italie et le Président des États Unis Mexicains, animés du désir de resserrer les liens d'amitié existants entre les deux Pays, s'inspirant de principes de la Convention pour le règlement pacifique des conflits internationaux, signée à La Haye le 29 Juillet 1899, et désirant, conformément à l'esprit de l'article 19 de ladite Convention, consacrer, par un accord général, le principe de l'arbitrage obligatoire dans leurs rapports réciproques, ont résolu deconclure une Convention à cet effet, et ont nommé pour leurs plénipotentiaires Leurs Délégués plénipotentiaires à la Deuxième Conférence de la Paix, savoir:

SA MAJESTÉ LE ROI D'ITALIE: Son Excellence le Comte Joseph Tornielli Brusati di Vergano, Sénateur du Royaume, Son Ambassadeur près le Président de la République française, Membre de la Cour permanente d'arbitrage; Son Excellence M. Guido Pompilj, Député au Parlement national, Son Sous Secrétaire d'État pour les Affaires Étrangères; M. Guido Fusinato, Député au Parlement national, Membre du Conseil d'État.

LE PRÉSIDENT DES ÉTATS UNIS MEXICAINS: M. Gonzalo A. Esteva, Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté le Roi d'Italie; M. Sebastian B. de Mier, Envoyé extraordiniaire et Ministre plénipotentiaire près le Président de la République française; M. Francisco L. de La Barra, Envoyé extraordinaire et Ministre plénipotentiaire près Sa Majesté le Roi des Belges et près Sa Majesté la Reine des Pays-Bas;

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions suivantes:

ARTICLE I.

Les Hautes Parties contractantes s'engagent à soumettre à l'arbitrage toutes contestations qui pourraient surgir entre Elles et qui n'auraient pu être résolues par les voies diplomatiques.

His Majesty the King of Italy and the President of the United States of Mexico, animated by the desire of strengthening the ties of friendship already existing between the two countries, being inspired by the principles of the Convention for the pacific settlement of international conflicts, signed at The Hague, July 29, 1899, and desiring, in accordance with the spirit of Article XIX. of the said Convention, to consecrate, by a general agreement, the principle of compulsory arbitration in their mutual relations, have decided to conclude a Convention to this effect, and having named as their Plenipotentiaries their plenipotentiary Delegates at the Second Peace Conference, namely:

His Majesty the King of Italy: His Excellency Count Joseph Tornielli Brusati di Vergano, Senator of the Kingdom, His Ambassador to the President of the French Republic, Member of the Permanent Court of Arbitration; His Excellency M. Guido Pompilj, Member of the national Parliament, His Under-Secretary of State for Foreign Affaires; M. Guido Fusinato, Member of the national Parliament, Member of the Council of State.

The President of the United States of Mexico: M. Gonzalo A. Esteva, Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Italy; M. Sebastian B. de Mier, Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic; M. Francisco L. de la Barra, Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Belgians and to Her Majesty the Queen of the Netherlands;

Who, after communicating their full powers, found in good and due form, have decided upon the following provisions:

ARTICLE I.

The High Contracting Parties undertake to submit to arbitration all differences which may arise between them and may not have been settled through the diplomatic channel.

Il appartient toutefois à chacune d'Elles de ne pas soumettre à l'arbitrage les contestations qui, d'après Son appréciation, mettent en cause l'indépendance ou l'honneur national.

Dans les différends pour lesquels, d'après la loi territorial, l'autorité judiciaire serait compétente, les Parties contractantes ont le droit de ne soumettre le litige au jugement arbitral qu'après que la juridiction nationale aura statué définitivement.

ARTICLE II.

Seront en tout cas soumises à l'arbitrage, sans la réserve indiquée à l'alinéa 2 de l'Article I., les contestations concernant les questions suivantes :

1. Réclamations pécuniaires du chef de pertes et dommages éprouvées par l'un des États contractants ou par ses nationaux par l'effet d'actes illicites ou d'omission de la part de l'autre État contractant, des autorités publiques, et de leurs fonctionnaires ;
2. Interprétation et application des stipulations concernant des matières d'ordre exclusivement juridique, administratif, économique, de commerce et de navigation ;
3. Déni de justice.

La question de savoir si une contestation constitue ou non un différend expressément prévu aux numéros 1, 2 et 3, sera également soumise à l'arbitrage.

ARTICLE III.

Dans chaque cas particulier, les Hautes Parties contractantes signent un compromis spécial déterminant l'objet du litige, et s'il y a lieu, le siège du tribunal, la langue dont il fera usage et celles dont l'emploi sera autorisé devant lui, le montant de la somme que chaque Partie aura à déposer à titre d'avance pour les frais, la forme[1] et les délais à observeren ce qui concerne la constitution du tribunal et l'échange des mémoires et des documents, et généralement, toutes les conditions dont Elles seront convenues.

A défaut de compromis, les arbitres, nommés d'après les règles établies dans les Articles IV. et V. du présent traité, jugent sur la base des prétentions qui leur seront soumises.

Au surplus et en l'absence d'entente spéciale, les dispositions établies par la Convention pour le règlement pacifique des conflits internationaux, signée à La Haye le 29 Juillet 1899, seront appliquées, sous réserve des additions and des modifications contenues dans les articles suivants.

Each Party has the right, however, not to submit to arbitration disputes which they consider as involving independence or national honour.

In differences in which, according to the territorial law, the judicial authority would be competent, the Contracting Parties have the right not to submit the matter in dispute to an arbitral judgment till after the national jurisdiction shall have given a final decision.

ARTICLE II.

Disputes concerning the following matters shall in any case be submitted to arbitration without being subject to the reserve mentioned in § 2 of Article I., namely :

(1) Claims for money for losses and damages suffered by one of the contracting States or by its nationals, caused by illicit acts or omissions on the part of the other contracting State, of the public authorities, and of their officials ;

(2) The interpretation and application of stipulations concerning matters of an exclusively judicial administrative or economic order, or relating to trade or navigation ;

(3) Denials of justice.

The question of deciding whether a dispute is a difference expressly provided for in (1), (2), and (3) shall also be submitted to arbitration.

ARTICLE III.

In each particular case, the High Contracting Parties shall sign a special *compromis* setting out the matter in dispute, and, if necessary, the seat of the tribunal, the language which it shall use, and those the use of which shall be authorised before it, the amount which each Party shall deposit on account of costs, the forms[1] and time limits to be observed as regards the constitution of the tribunal and the exchange of memoirs and documents, and generally all the conditions they are agreed upon.

In default of a *compromis*, the arbitrators, appointed according to the rules set out in Articles IV. and V. of the present treaty, decide upon the basis of the claims submitted to them.

Furthermore, and in the absence of any special agreement, the provisions of the Convention for the peaceful settlement of international conflicts, signed at The Hague, July 29, 1899, shall be applied, subject to the additions and modifications contained in the following articles.

[1] The sense of this term is not clear.

ARTICLE IV.

Sauf stipulation contraire, le tribunal est composé de trois membres. Les deux Parties nomment chacune un arbitre, et s'entendent sur le choix d'un surarbitre. Si l'accord ne se fait pas sur ce point, les Parties s'adresseront à une tierce Puissance pour qu'elle fasse cette désignation, et, à défaut d'accord même à ce sujet, une requête sera adressée à cette fin à Sa Majesté la Reine des Pays-Bas ou à Ses Successeurs.

Le surarbitre est choisi dans la liste des membres de la Cour permanente d'arbitrage, établie par ladite Convention de La Haye. Ni le surarbitre ni les arbitres ne peuvent être des ressortissants d'une des Parties, ni être domiciliés ou résider dans leur territoire.

La même personne ne peut pas siéger comme surarbitre dans deux affaires successives.

ARTICLE V.

Dans le cas où les Parties ne s'entendent pas pour la constitution du tribunal, les fonctions arbitrales seront conférées à un arbitre unique, qui, sauf stipulation contraire sera nommé d'après les règles établies dans l'article précédent pour la nomination du surarbitre.

Sauf stipulation contraire, la question prévue par le dernier alinéa de l'Article II. sera également décidée par un arbitre unique, à nommer d'après les mêmes règles, et qui, le cas échéant, continuera à siéger, comme arbitre ou comme surarbitre, pour la décision du fond du litige.

ARTICLE VI.

La sentence arbitrale est rendue à la majorité des voix sans qu'il y ait lieu de mentionner le dissentiment éventuel d'un arbitre.

La sentence est signée par le Président et par le greffier, ou par l'arbitre unique.

ARTICLE VII.

La sentence arbitrale décide définitivement et sans appel la contestation.

Toutefois, le tribunal ou l'arbitre qui a prononce la sentence peut, avant que celle-ci soit exécutée, être saisi d'une demande en révision dans les cas suivants :

1. Si on a découvert un fait nouveau qui eut été de nature à exercer une influence décisive sur la sentence, et qui, lors de la clôture des débats, était inconnu de la Partie qui en demande la révision, et du tribunal eu de l'arbitre ;

ARTICLE IV.

Subject to contrary stipulation, the tribunal shall be composed of three members. The two Parties shall each appoint an arbitrator, and shall agree as to the choice of an umpire. If they cannot agree upon such choice, the Parties shall apply to a third Power to make the appointment ; and if they cannot agree even upon that point, an application shall be addressed for this purpose to Her Majesty the Queen of the Netherlands or to her Successors.

The umpire shall be chosen from the list of members of the permanent Court of Arbitration established by the said Hague Convention. Neither the umpire nor the arbitrators shall be citizens or subjects of any of the Parties, or domiciled or resident in their territories.

The same person cannot act as umpire in two successive cases.

ARTICLE V.

In case the Parties should not agree upon the constitution of the tribunal, the duties of arbitrator shall be conferred on a single arbitrator, who, subject to contrary stipulation, shall be appointed according to the rules set out in the preceding article for the appointment of the umpire.

Subject to contrary stipulation, the question provided for in the last section of Article II. shall also be decided by a single arbitrator, to be appointed according to the same rules, and who, if the case arise, shall continue to sit as arbitrator or as umpire for the decision of the merits of the issue.

ARTICLE VI.

The arbitration award shall be given by the majority, without its being necessary to mention the possible dissent of an arbitrator.

The award shall be signed by the President and by the Registrar, or by the single arbitrator.

ARTICLE VII.

The arbitration award decides the matter in dispute finally and without appeal.

Nevertheless, an application for revision may be lodged with the tribunal or arbitrator who has given the award, and before the latter has been executed, in the following cases :

(1) If a new fact is discovered which might have had an important bearing upon the award, and which, at the time of the close of the proceedings, was unknown to the Party applying for the revision, and to the tribunal or arbitrator ;

2. S'il a été jugé sur des pièces fausses ou erronées ;
3. Si la sentence se trouve, en tout ou en partie, viciée par une erreur de fait qui résulte des actes ou documents de la cause.

ARTICLE VIII.

Tout différend qui pourrait surgir entre les Parties, concernant l'interprétation ou l'exécution de la sentence, sera soumis au jugement du tribunal ou de l'arbitre qui l'à rendue.

ARTICLE IX.

Le présent traité est établi en langue italienne, espagnole et française.

Les Hautes Parties contractantes déclarent considérer en cas de doute, le texte français comme faisant foi.

ARTICLE X.

Le présent traité sera ratifiée, et les ratifications seront échangées à Rome aussitôt que possible.

Il aura une durée de dix ans á partir de l'échange des ratifications. S'il n'est dénoncé six mois avant son échéance, il sera censé renouvelé pour une nouvelle période de dix ans, et ainsi de suite.

En foi de quoi les Plénipotentiaires ont signé le présent traité et l'ont revêtu de leurs cachets.

Fait et signé à La Haye en double exemplaire, le 16 Octobre mil neuf cent sept.

(2) If the award has been based on false or erroneous documents ;
(3) If the award is, in whole or in part, vitiated by an error of fact resulting from the documents or papers in the cause.

ARTICLE VIII.

Any difference which may arise between the Parties concerning the interpretation or execution of the award, shall be submitted to the decision of the tribunal, or to the arbitrator who has delivered it.

ARTICLE IX.

The present treaty is set out in Italian, Spanish, and French.

The High Contracting Parties agree to consider, in case of doubt, the French text as binding.

ARTICLE X.

The present treaty shall be ratified, and the ratifications shall be exchanged at Rome as soon as possible.

It shall remain in force for a period of ten years from the date of the exchange of ratifications. Unless it is denounced six months before its expiration, it shall be considered as renewed for a further period of ten years, and so on.

In faith of which the Plenipotentiaries have signed the present treaty, and have thereunto affixed their seals.

Made and signed in duplicate at The Hague, October 16, 1907.

5. REVISED GENEVA CONVENTION

CONVENTION POUR L'AMÉLIORATION DU SORT DES BLESSÉS ET MALADES DANS LES ARMÉES EN CAMPAGNE

Conclue le 6 Juillet 1906

S. M., etc.

(NOMS DES SOUVERAINS ET CHEFS D'ÉTAT.)

Également animés du désir de diminuer, autant qu'il dépend d'eux, les maux inséparables de la guerre et voulant, dans ce but, perfectionner et compléter les dispositions convenues à Genève, le 22 Août 1864, pour l'amélioration du sort des militaires blessés ou malades dans les armées en campagne ;

Ont résolu de conclure une nouvelle Convention à cet effet, et ont nommé pour leurs Plénipotentiaires, savoir :

Sa Majesté l'EMPEREUR d'ALLEMAGNE, ROI de PRUSSE :

S. E. M. le chambellan et conseiller intime actuel A. de BÜLOW, envoyé extraordinaire et ministre plénipotentiaire à Berne,

M. le général de brigade baron de MANTEUFFEL,

M. le médecin-inspecteur, médecin général Dr VILLARET (avec rang de général de brigade),

M. le Dr ZORN, conseiller intime de justice, professeur ordinaire de droi tà l'Université de Bonn, syndic de la couronne

Son Excellence le PRÉSIDENT de la RÉPUBLIQUE ARGENTINE :

S. E. M. Enrique B. Moreno, envoyé extraordinaire et ministre plénipotentiaire à Berne,

M. MOLINA SALAS, consul général en Suirs ;

Sa Majesté l'EMPEREUR d'AUTRICHE, ROI de BOHEME, etc., et ROI APOSTOLIQUE de HONGRIE :

S. E. M. le baron HEIDLER de EGEREGG et SYRGENSTEIN, conseiller intime actuel, envoyé extraordinaire et ministre plénipotentiaire à Berne ;

Sa Majeste le ROI des BELGES :

M. le colonel d'état-major comte de T'SERCLAES, chef d'état-major de la 4me circonscription militaire ;

Son Altesse Royale le PRINCE de BULGARIE :

M. le Dr Marin ROUSSEFF, directeur du service sanitaire,

M. le capitaine d'état-major Boris SIRMANOFF ;

(*Official Translation.*)

(*Names of Sovereigns and Chiefs of States.*)

Being equally animated by the desire of mitigating, as far as possible, the evils inseparable from war, and desiring, with this end in view, to improve and to complete the arrangements agreed upon at Geneva on the 22nd August 1864, for the amelioration of the condition of wounded or sick soldiers in armies in the field ;

Have resolved to conclude for this purpose a new Convention, and have named as their Plenipotentiaries, that is to say :

(*Names and Description of Plenipotentiaries.*)

Son Excellence le PRÉSIDENT de la RÉPUBLIQUE du CHILI:

M. Agustin EDWARDS, envoyé extraordinaire et ministre plénipotentiaire;

Sa Majesté l'EMPEREUR de CHINE:

S. E. M. LOU TSENG TSIANG, envoyé extraordinaire et ministre plénipotentiaire à La Haye;

Sa Majesté le ROI des BELGES, SOUVERAIN de l'État Independant du CONGO:

M. le colonel d'état-major comte de T'SERCLAES, chef d'état-major de la 4me circonscription militaire de Belgique;

Sa Majesté l'EMPEREUR de CORÉE:

S. E. M. KATO Tsunetada, envoyé extraordinaire et ministre plénipotentiaire du Japon à Bruxelles;

Sa Majesté le ROI de DANEMARK:

M. LAUB, médecin général, chef du corps des médecins de l'armée;

Sa Majesté le ROI d'ESPAGNE:

S. E. M. Silverio de BAGUER y CORSI, comte de Baguer, ministre resident;

Le PRÉSIDENT des ÉTATS-UNIS d'AMÉRIQUE:

M. William Cary SANGER, ancien sous-secrétaire de la guerre des États-Unis d'Amérique,

M. le contre-amiral Charles-S. SPERRY, president de l'ecole de guerre navale,

M. le général de brigade Georges-B. DAVIS, avocat général de l'armée,

M. le général de brigade Robert-M. O'REILLY, médecin général de l'armée;

Le PRÉSIDENT des ÉTATS-UNIS du BRÉSIL:

M. le Dr Carlos LEMGRUBER-KROPF, chargé d'affaires à Berne,

M. le colonel du génie Roberto TROMPOWSKI LEITAO d'ALMEIDA, attaché militaire à la légation du Brésil à Berne;

Le PRÉSIDENT des ÉTATS-UNIS MEXICANS:

M. le général de brigade José-Maria PÉREZ;

Le PRÉSIDENT de la RÉPUBLIQUE FRANÇAISE:

S. E. M. RÉVOIL, ambassadeur à Berne,

M. Louis RENAULT, membre de l'Institut de France, ministre plénipotentiaire, jurisconsulte du ministère des affaires étrangères, professeur à la faculté de droit de Paris,

M. le colonel breveté d'artillerie de réserve OLIVIER,

M. le médecin principal de 2e classe PAUZAT;

Sa Majesté le ROI du Royaume-Uni de GRANDE-BRETAGNE et d'IRLANDE, EMPEREUR des INDES :

M. le major-général Sir John Charles ARDAGH, K.C.M.G., K.C.I.E., C.B.,

M. le professeur Thomas Erskine HOLLAND, K.C., D.C.L., Sir John FURLEY, C.B.,

M. le lieutenant-colonel William Grant MACPHERSON, C.M.G., R.A.M.C. ;

Sa Majesté le ROI des HELLÈNES :

M. Michel KEBEDGY, professeur de droit international à l'Université de Berne ;

Le PRÉSIDENT de la RÉPUBLIQUE de GUATÉMALA :

M. Manuel ARROYO, chargé d'affaires à Paris,

M. Henri WISWALD, consul général à Berne, en résidence à Genève ;

Le PRÉSIDENT de la RÉPUBLIQUE de HONDURAS :

M. Oscar HŒPFL, consul général à Berne ;

Sa Majesté le ROI d'ITALIE :

M. le marquis Roger MAURIGI di CASTEL MAURIGI, colonel dans Son armée, grand officier de Son ordre royal des SS. Maurice et Lazare,

M. le major-général médecin Giovanni RANDONE, inspecteur sanitaire militaire, commandeur de Son ordre royal de la Couronne d'Italie ;

Sa Majesté l'EMPEREUR du JAPON :

S. E. M. KATO Tsunetada, envoyé extraordinaire et ministre plénipotentiaire à Bruxelles ;

Son Altesse Royale le GRAND-DUC de LUXEMBOURG, DUC de NASSAU :

M. le colonel d'état-major comte de T'SERCLAES, chef d'état major de la 4^{me} circonscription militaire de Belgique ;

Son Altesse Royale le PRINCE de MONTENEGRO :

M. E. ODIER, envoyé extraordinaire et ministre plénipotentiaire de la Confédération suisse en Russie,

M. le colonel MÜRSET, médecin en chef de l'armée fédérale suisse ;

Sa Majesté le ROI de NORVÈGE :

M. le capitaine DAAE, du corps sanitaire de l'armée norvégienne ;

Sa Majesté la REINE des PAYS-BAS :

M. le lieutenant-général en retraite Jonkheer J. C. C. den BEER POORTUGAEL, membre du Conseil d'État,

M. le colonel A. A. J. QUANJER, officier de santé en chef de 1re classe ;

Le PRESIDENT de la RÉPUBLIQUE du PÉROU:
M. Gustavo de la FUENTE, premier secrétaire de la légation du Pérou à Paris;

Sa Majesté Impériale le SCHAH de PERSE:
S. E. M. Samad Khan MOMTAZ-OS-SALTANEH, envoyé extraordinaire et ministre plénipotentiaire à Paris;

Sa Majesté le ROI de PORTUGAL et des ALGARVES, etc.:
S. E. M. Alberto d'OLIVEIRA, envoyé extraordinaire et ministre plénipotentiaire à Berne;
M. José Nicolau RAPOSO-BOTELHO, colonel d'infanterie, ancien député, directeur du Royal collège militaire à Lisbonne;

Sa Majesté le ROI de ROUMANIE:
M. le Dr Sache STEPHANESCO, colonel de réserve;

Sa Majesté l'EMPEREUR de Toutes les RUSSIES:
S. E. M. le conseiller privé de MARTENS, membre permanent du conseil du ministère des affaires étrangères de Russie;

Sa Majesté le ROI de SERBIE:
M. Milan ST. MARKOVITCH, secrétaire général du ministère de la justice,
M. le colonel Dr SONDERMAYER, chef de la division sanitaire au ministère de la guerre;

Sa Majesté le ROI de SIAM:
M. le prince CHAROON, chargé d'affaires à Paris,
M. CORRAGIONI d'ORELLI, conseiller de légation à Paris;

Sa Majesté le ROI de SUÈDE:
M. SÖRENSEN, médecin en chef de la 2e division de l'armée;

Le CONSEIL FÉDÉRAL SUISSE:
M. E. ODIER, envoyé extraordinaire et ministre plénipotentiaire en Russie,
M. le colonel MÜRSET, médecin en chef de l'armée fédérale;

Le PRÉSIDENT de la RÉPUBLIQUE ORIENTALE de l'URUGUAY:
M. Alexandre HEROSA, chargé d'affaires à Paris,

Lesquels, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus de ce qui suit:[1]

Who, after having communicated to each other their full powers, found in good and due form, have agreed as follows:

[1] Some of the States made reserves as regards certain articles: China in regard to Articles XXVII. and XXVIII., Great Britain in regard to Articles XXIII., XXVII., and XXVIII., Japan and Corea in regard to Article XXVIII., and Persia in regard to Article XVIII. The declarations made by the plenipotentiaries of these States were as follows:

China: "The Government of Pekin being at the present moment wholly engrossed in the revision of the legislation of the Empire, it will be very difficult for it to undertake the elaboration of new laws before its present work is terminated. In consequence, I hereby declare that I shall sign the new convention under reserve of Articles XXVII. and XXVIII., while hoping that our revised legislation will later on and in due course be completed by the adjunction of a new law of prohibition in conformity with the spirit of the abovesaid clauses."

Great Britain: "The delegates of Great Britain having been unable to adhere to Articles XXIII., XXVII., and XXVIII. of the draft convention, desire nevertheless to record in the minutes the following *vœu*:—They desire that the use of the distinctive sign and name of the Red Cross be, even in time of peace, restricted, by the legislation of each country, to the sanitary service of its armies and the relief societies recognised and regulated by their respective Governments."

Japan and Corea: "The Japanese Government is not disposed at the present moment to undertake the elaboration of a penal military law in application of Article XXVIII. of the convention. It therefore makes a reserve as regards this disposition."

Persia: "The delegation of Persia accepts the convention while reserving the right to employ the Lion and the Sun as a distinctive sign. However, in homage to Switzerland, it declares that the federal colours will be maintained, in the sense that the emblem of the Lion and the Sun for the sanitary service of the army shall be red on a white ground."

The final protocol contains a *vœu* which all the Signatory States have adopted except Japan, Corea, and Great Britain. It is as follows:

"The Conference expresses the wish that, in order to interpret and apply as accurately as possible the Geneva Convention, the Signatory Powers will submit to The Hague Court, if the cases and circumstances allow, the differences which in time of peace may arise between them as regards the interpretation of the said convention."

The first Russian proposal went further in proposing that the contracting States should agree to submit to The Hague Court *all* differences which might arise between them as to the interpretation of the Convention, unless circumstances made it impossible.

Chapitre I.—*Des Blessés et Malades.*

ARTICLE I.

Les militaires et les autres personnes officiellement attachées aux armées, qui seront blsssés ou malades, devront être respectés et soignés, sans distinction de nationalité, par le belligérant qui les aura en son pouvoir.

Toutefois, le belligérant, obligé d'abandonner des malades ou des blessés à son adversaire, laissera avec eux, autant que les circonstances militaires le permettront, une partie de son personnel et de son matériel sanitaires pour contribuer à les soigner.

ARTICLE II.

Sous réserve des soins à leur fournir en vertu de l'article précédent, les blessés ou malades d'une armée tombés au pouvoir de l'autre belligérant sont prisonniers de guerre et les règles générales du droit des gens concernant les prisonniers leur sont applicables.

Cependant, les belligérants restent libres de stipuler entre eux, à l'égard des prisonniers blessés ou malades, telles clauses d'exception ou de faveur qu'ils jugeront utiles ; ils auront, notamment, la faculté de convenir :

De se remettre réciproquement, après un combat, les blessés laissés sur le champ de bataille ;

De renvoyer dans leur pays, après les avoir mis en état d'être transportés ou après guérison, les blessés ou malades qu'ils ne voudront pas garder prisonniers ;

De remettre à un État neutre, du consentement de celui-ci, des blessés ou malades de la partie adverse, à la charge par l'État neutre de les interner jusqu'à la fin des hostilités.

ARTICLE III.

Après chaque combat, l'occupant du champ de bataille prendra des mesures pour rechercher les blessés et pour les faire protéger, ainsi que les morts, contre le pillage et les mauvais traitements.

Il veillera à ce que l'inhumation ou l'incinération des morts soit précédée d'un examen attentif de leurs cadavres.

ARTICLE IV.

Chaque belligérant enverra, dès qu'il sera possible, aux autorités de leur pays ou de leur armée les marques ou pièces militaires d'identité trouvées sur les morts et l'état nominatif des blessés ou malades recueillis par lui.

Les belligérants se tiendront réciproquement au courant des internements et des mutations, ainsi que des entrées dans les hôpitaux et des décès survenus parmi les blessés et malades en leur pouvoir. Ils recueilleront tous les objets d'un usage personnel, valeurs, lettres, etc., qui seront trouvés sur les champs de

Chapter I.—*The Wounded and Sick.*

ARTICLE I.

Officers and soldiers, and other persons officially attached to armies, shall be respected and taken care of when wounded or sick, by the belligerent in whose power they may be, without distinction of nationality.

Nevertheless, a belligerent who is compelled to abandon sick or wounded to the enemy shall, as far as military exigencies permit, leave with them a portion of his medical personnel and material to contribute to the care of them.

ARTICLE II.

Except as regards the treatment to be provided for them in virtue of the preceding Article, the wounded and sick of an army who fall into the hands of the enemy are prisoners of war, and the general provisions of international law concerning prisoners are applicable to them.

Belligerents are, however, free to arrange with one another such exceptions and mitigations with reference to sick and wounded prisoners as they may judge expedient ; in particular, they will be at liberty to agree :

To restore to one another the wounded left on the field after a battle ;

To repatriate any wounded and sick whom they do not wish to retain as prisoners, after rendering them fit for removal or after recovery ;

To hand over to a neutral State, with the latter's consent, the enemy's wounded and sick to be interned by the neutral State until the end of hostilities.

ARTICLE III.

After each engagement the Commander in possession of the field shall take measures to search for the wounded, and to ensure protection against pillage and maltreatment both for the wounded and for the dead.

He shall arrange that a careful examination of the bodies is made before the dead are buried or cremated.

ARTICLE IV.

As early as possible each belligerent shall send to the authorities of the country or army to which they belong the military identification marks or tokens found on the dead, and a nominal roll of the wounded or sick who have been collected by him.

The belligerents shall keep each other mutually informed of any interments and changes, as well as of admissions into hospital and deaths among the wounded and sick in their hands. They shall collect all the articles of personal use, valuables, letters, etc., which are found on the field of battle

bataille ou délaissés par les blessés ou malades décédés dans les établissements et formations sanitaires, pour les faire transmettre aux intéressés par les autorités de leur pays.

ARTICLE V.

L'autorité militaire pourra faire appel au zèle charitable des habitants pour recueillir et soigner, sous son contrôle, des blessés ou malades des armées, en accordant aux personnes ayant répondu à cet appel une protection spéciale et certaines immunités.

Chapitre II.—*Des Formations et Établissements Sanitaires.*

ARTICLE VI.

Les formations sanitaires mobiles (c'est-à-dire celles qui sont destinées à accompagner les armées en campagne) et les établissements fixes du service de santé seront respectés et protégés par les belligérants.

ARTICLE VII.

La protection due aux formations et établissements sanitaires cesse si l'on en use pour commettre des actes nuisibles à l'ennemi.

ARTICLE VIII.

Ne sont pas considérés comme étant de nature à priver une formation ou un établissement sanitaire de la protection assurée par l'Article VI. :

1°. Le fait que le personnel de la formation ou de l'établissement est armé et qu'il use de ses armes pour sa propre défense ou celle de ses malades et blessés ;

2°. Le fait qu'à défaut d'infirmiers armés, la formation ou l'établissement est gardé par un piquet ou des sentinelles munis d'un mandat régulier ;

3°. Le fait qu'il est trouvé dans la formation ou l'établissement des armes et cartouches retirées aux blessés et n'ayant pas encore été versés au service compétent.

Chapitre III.—*Du Personnel.*

ARTICLE IX.

Le personnel exclusivement affecté à l'enlèvement, au transport et au traitement des blessés et des malades, ainsi qu'à l'administration des formations et établissements sanitaires, les aumôniers attachés aux armées, seront respectés et protégés en toute circonstance ; s'ils tombent entre les mains de l'ennemi, ils ne seront pas traités comme prisonniers de guerre.

Ces dispositions s'appliquent au personnel de garde des formations et établissements sanitaires dans le cas prévu à l'Article VIII., n° 2.

or left by the wounded or sick who have died in the medical establishments or units, in order that such objects may be transmitted to the persons interested by the authorities of their own country.

ARTICLE V.

The competent military authority may appeal to the charitable zeal of the inhabitants to collect and take care of, under his direction, the wounded or sick of armies, granting to those who respond to the appeal special protection and certain immunities.

Chapter II.—*Medical Units and Establishments.*

ARTICLE VI.

Mobile medical units (that is to say, those which are intended to accompany armies into the field) and the fixed establishments of the medical service shall be respected and protected by the belligerents.

ARTICLE VII.

The protection to which medical units and establishments are entitled ceases if they are made use of to commit acts harmful to the enemy.

ARTICLE VIII.

The following facts are not considered to be of a nature to deprive a medical unit or establishment of the protection guaranteed by Article VI. :

1. That the personnel of the unit or of the establishment is armed, and that it uses its arms for its own defence or for that of the sick and wounded under its charge ;

2. That in default of armed orderlies the unit or establishment is guarded by a piquet or by sentinels furnished with an authority in due form ;

3. That weapons and cartridges taken from the wounded and not yet handed over to the proper department are found in the unit or establishment.

Chapter III.—*Personnel.*

ARTICLE IX.

The personnel engaged exclusively in the collection, transport, and treatment of the wounded and the sick, as well as in the administration of medical units and establishments, and the Chaplains attached to armies, shall be respected and protected under all circumstances. If they fall into the hands of the enemy they shall not be treated as prisoners of war.

These provisions apply to the guard of medical units and establishments under the circumstances indicated in Article VIII. (2).

ARTICLE X.

Est assimilé au personnel visé à l'article précédent le personnel des Sociétés de secours volontaires dûment reconnues et autorisées par leur Gouvernement, qui sera employé dans les formations et établissements sanitaires des armées, sous la réserve que ledit personnel sera soumis aux lois et règlements militaires.

Chaque État doit notifier à l'autre, soit dès le temps de paix, soit à l'ouverture ou au cours des hostilités, en tout cas avant tout emploi effectif, les noms des Sociétés qu'il a autorisées à prêter leur concours, sous sa responsabilité, au service sanitaire officiel de ses armées.

ARTICLE XI.

Une Société reconnue d'un pays neutre ne peut prêter le concours de ses personnels et formations sanitaires à un belligérant qu'avec l'assentiment préalable de son propre Gouvernement et l'autorisation du belligérant lui-même.

Le belligerant qui a accepté le secours est tenu, avant tout emploi, d'en faire la notification à son ennemi.

ARTICLE XII.

Les personnes désignées dans les Articles IX., X. et XI. continueront, après qu'elles seront tombées au pouvoir de l'ennemi, à remplir leurs fonctions sous sa direction.

Lorsque leur concours ne sera plus indispensable, elles seront renvoyées à leur armée ou à leur pays dans les délais et suivant l'itinéraire compatibles avec les nécessités militaires.

Elles emporteront, alors, les effets, les instruments, les armes, et les chevaux qui sont leur propriété particuliére.

ARTICLE XIII.

L'ennemi assurera au personnel visé par l'Article IX., pendan qu'il sera en son pouvoir, les mêmes allocations et la même solde qu'au personnel des mêmes grades de son armée.

Chapitre IV.—*Du Matériel.*

ARTICLE XIV.

Les formations sanitaires mobiles conserveront, si elles tombent au pouvoir de l'ennemi, leur matériel, y compris les attelages, quels que soient les moyens de transport et le personnel conducteur.

Toutefois, l'autorité militaire compétente aura la faculté de s'en servir pour les soins des blessés et malades ; la restitution du matériel aura lieu dans les conditions prévues pour le personnel sanitaire, et, autant que possible, en même temps.

ARTICLE XV.

Les bâtiments et le matériel des établissements fixes demeurent soumis aux lois de la guerre, mais ne pourront être

ARTICLE X.

The personnel of Voluntary Aid Societies, duly recognised and authorised by their Government, who may be employed in the medical units and establishments of armies, is placed on the same footing as the personnel referred to in the preceding Article, provided always that the first-mentioned personnel shall be subject to military law and regulations.

Each State shall notify to the other, either in time of peace or at the commencement of or during the course of hostilities, but in every case before actually employing them, the names of the Societies which it has authorised, under its responsibility, to render assistance to the regular medical service of its armies.

ARTICLE XI.

A recognised Society of a neutral country can only afford the assistance of its medical personnel and units to a belligerent with the previous consent of its own Government and the authorisation of the belligerent concerned.

A belligerent who accepts such assistance is bound to notify the fact to his adversary before making any use of it.

ARTICLE XII.

The persons designated in Articles IX., X., and XI. after they have fallen into the hands of the enemy, shall continue to carry on their duties under his direction.

When their assistance is no longer indispensable, they shall be sent back to their army or to their country at such time and by such route as may be compatible with military exigencies.

They shall then take with them such effects, instruments, arms, and horses as are their private property.

ARTICLE XIII.

The enemy shall secure to the persons mentioned in Article IX., while in his hands, the same allowances and the same pay as are granted to the persons holding the same rank in his own army.

Chapter IV.—*Material.*

ARTICLE XIV.

If mobile medical units fall into the hands of the enemy they shall retain their material, including their teams, irrespectively of the means of transport and the drivers employed.

Nevertheless, the competent military authority shall be free to use the material for the treatment of the wounded and sick. It shall be restored under the conditions laid down for the medical personnel, and so far as possible at the same time.

ARTICLE XV.

The buildings and material of fixed establishments remain subject to the

détournés de leur emploi, tant qu'ils seront nécessaires aux blessés et aux malades.

Toutefois, les commandants des troupes d'opérations pourront en disposer, en cas de nécessités militaires importantes, en assurant au préalable le sort des blessés et malades qui s'y trouvent.

ARTICLE XVI.

Le matériel des Sociétés de secours, admises au bénéfice de la Convention conformément aux conditions déterminées par celle-ci, est considéré comme propriété privée et, comme tel, respecté en toute circonstance, sauf le droit de réquisition reconnu aux belligérants selon les lois et usages de la guerre.

Chapitre V.—*Des Convois d'Évacuation.*

ARTICLE XVII.

Les convois d'évacuation seront traités comme les formations sanitaires mobiles, sauf les dispositions spéciales suivantes :

1°. Le belligérant interceptant un convoi pourra, si les nécessités militaires l'exigent, le disloquer en se chargeant des malades et blessés qu'il contient.

2°. Dans ce cas, l'obligation de renvoyer le personnel sanitaire, prévue à l'Article XII., sera étendue à tout le personnel militaire préposé au transport ou à la garde du convoi et muni à cet effet d'un mandat régulier.

L'obligation de rendre le matériel sanitaire, prévue à l'Article XIV., s'appliquera aux trains de chemins de fer et bateaux de la navigation intérieure spécialement organisés pour les évacuations, ainsi qu'au matériel d'aménagement des voitures, trains et bateaux ordinaires appartenant au service de santé.

Les voitures militaires, autres que celles du service de santé, pourront être capturées avec leurs attelages.

Les personnel civil et les divers moyens de transport provenant de la réquisition, y compris le matériel de chemin de fer et les bateaux utilisés pour les convois, seront soumis aux règles générales du droit des gens.

Chapitre VI.—*Du Signe Distinctif.*

ARTICLE XVIII.

Par hommage pour la Suisse, le signe héraldique de la croix rouge sur fond blanc, formé par interversion des couleurs fédérales, est maintenu comme emblème et signe distinctif du service sanitaire des armées.

ARTICLE XIX.

Cet emblème figure sur les drapeaux, les brassards, ainsi que sur tout le matérial se rattachant au service sanitaire, avec la permission de l'autorité militaire compétente.

laws of war, but may not be diverted from their purpose so long as they are necessary for the wounded and the sick.

Nevertheless, the Commanders of troops in the field may dispose of them, in case of urgent military necessity, provided they make previous arrangements for the welfare of the wounded and sick who are found there.

ARTICLE XVI.

The material of Voluntary Aid Societies which are admitted to the privileges of the Convention under the conditions laid down therein is considered private property, and, as such, to be respected under all circumstances, saving only the right of requisition recognised for belligerents in accordance with the laws and customs of war.

Chapter V.—*Convoys of Evacuation.*

ARTICLE XVII.

Convoys of evacuation shall be treated like mobile medical units, subject to the following special provisions :

1. A belligerent intercepting a convoy may break it up if military exigencies demand, provided he takes charge of the sick and wounded who are in it.

2. In this case, the obligation to send back the medical personnel, provided for in Article XII., shall be extended to the whole of the military personnel detailed for the transport or the protection of the convoy and furnished with an authority in due form to that effect.

The obligation to restore the medical material, provided for in Article XIV., shall apply to railway trains, and boats used in internal navigation, which are specially arranged for evacuations, as well as to the material belonging to the medical service for fitting up ordinary vehicles, trains, and boats.

Military vehicles, other than those of the medical service, may be captured with their teams.

The civilian personnel and the various means of transport obtained by requisition, including railway material and boats used for convoys, shall be subject to the general rules of international law.

Chapter VI.—*The Distinctive Emblem.*

ARTICLE XVIII.

As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the medical service of armies.

ARTICLE XIX.

With the permission of the competent military authority this emblem shall be shown on the flags and armlets (brassards), as well as on all the material belonging to the Medical Service.

ARTICLE XX.

Le personnel protégé en vertu des Articles IX., alinéa 1er, X. et XI. porte, fixé au bras gauche, un brassard avec croix rouge sur fond blanc, délivré et timbré par l'autorité militaire compétente, accompagné d'un certificat d'identité pour les personnes rattachées au service de santé des armées et qui n'auraient pas d'uniforme militaire.

ARTICLE XXI.

Le drapeau distinctif de la Convention ne peut être arboré que sur les formations et établissements sanitaires qu'elle ordonne de respecter et avec le consentement de l'autorité militaire. Il devra être accompagné du drapeau national du belligérant dont relève la formation ou l'établissement.

Toutefois, les formations sanitaires tombées au pouvoir de l'ennemi n'arboreront pas d'autres drapeaux que celui de la Croix-Rouge, aussi longtemps qu'elles se trouveront dans cette situation.

ARTICLE XXII.

Les formations sanitaires des pays neutres qui, dans les conditions prévues par l'Article XI., auraient été autorisées à fournir leurs services, doivent arborer, avec le drapeau de la Convention, le drapeau national du bélligerant dont elles relèvent.

Les dispositions du deuxième alinéa de l'article précédent leur sont applicables.

ARTICLE XXIII.

L'emblème de la croix rouge sur fond blanc et les mots *Croix-Rouge* ou *Croix de Genève* ne pourront être employés, soit en temps de paix, soit en temps de guerre, que pour protéger ou désigner les formations et établissements sanitaires, le personnel et le matériel protégés par la Convention.

Chapitre VII.—*De l'Application et de l'Exécution de la Convention.*

ARTICLE XXIV.

Les dispositions de la présente Convention ne sont obligatoires que pour les Puissances contractantes, en cas de guerre entre deux ou plusieurs d'entre elles. Ces dispositions cesseront d'être obligatoires du moment où l'une des Puissances belligérantes ne serait pas signataire de la Convention.

ARTICLE XXV.

Les commandants en chef des armées belligérantes auront à pourvoir aux détails d'exécution des articles précédents, ainsi qu'aux cas non prévus, d'après les instructions de leurs Gouvernements respectifs et conformément aux principes généraux de la présente Convention.

ARTICLE XX.

The personnel protected in pursuance of Articles IX. (paragraph 1), X., and XI. shall wear, fixed to the left arm, an armlet (brassard) with a red cross on a white ground, delivered and stamped by the competent military authority, and accompanied by a certificate of identity in the case of persons who are attached to the medical service of armies, but who have not a military uniform.

ARTICLE XXI.

The distinctive flag of the Convention shall only be hoisted over those medical units and establishments which are entitled to be respected under the Convention, and with the consent of the military authorities. It must be accompanied by the national flag of the belligerent to whom the unit or establishment belongs.

Nevertheless, medical units which have fallen into the hands of the enemy, so long as they are in that situation, shall not fly any other flag than that of the Red Cross.

ARTICLE XXII.

The medical units belonging to neutral countries which may be authorised to afford their services under the conditions laid down in Article XI. shall fly, along with the flag of the Convention, the national flag of the belligerent to whose army they are attached.

The provisions of the second paragraph of the preceding Article are applicable to them.

ARTICLE XXIII.

The emblem of the red cross on a white ground and the words "Red Cross" or "Geneva Cross" shall not be used, either in time of peace or in time of war, except to protect or to indicate the medical units and establishments and the personnel and material protected by the Convention.

Chapter VII.—*Application and Carrying out of the Convention.*

ARTICLE XXIV.

The provisions of the present Convention are only binding upon the Contracting Powers in the case of war between two or more of them. These provisions shall cease to be binding from the moment when one of the belligerent Powers is not a party to the Convention.

ARTICLE XXV.

The Commanders-in-chief of belligerent armies shall arrange the details for carrying out the preceding Articles, as well as for cases not provided for, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

ARTICLE XXVI.

Les Gouvernements signataires prendront les mesures nécessaires pour instruire leurs troupes, et spécialement le personnel protégé, des dispositions de la présente Convention et pour les porter à la connaissance des populations.

Chapitre VIII.—*De la Répression des Abus et des Infractions.*

ARTICLE XXVII.

Les Gouvernements signataires, dont la législation ne serait pas dès à présent suffisante, s'engagent à prendre ou à proposer à leurs législatures les mesures nécessaires pour empêcher en tout temps l'emploi, par des particuliers ou par des sociétés autres que celles y ayant droit en vertu de la présente Convention, de l'emblème ou de la dénomination de *Croix-Rouge* ou *Croix de Genève*, notamment, dans un but commercial, par le moyen de marques de fabrique ou de commerce.

L'interdiction de l'emploi de l'emblème ou de la dénomination dont il s'agit produira son effet à partir de l'époque déterminée par chaque législation et, au plus tard, cinq ans après la mise en vigueur de la présente Convention. Dès cette mise en vigueur, il ne sera plus licite de prendre une marque de fabrique ou de commerce contraire à l'interdiction.

ARTICLE XXVIII.

Les Gouvernements signataires s'engagent également à prendre ou à proposer à leurs législatures, en cas d'insuffisance de leurs lois pénales militaires, les mesures nécessaires pour réprimer, en temps de guerre, les actes individuels de pillage et de mauvais traitements envers des blessés et malades des armées, ainsi que pour punir, comme usurpation d'insignes militaires, l'usage abusif du drapeau et du brassard de la Croix-Rouge par des militaires ou des particuliers non protégés par la présente Convention.

Ils se communiqueront, par l'intermediaire du Conseil fédéral suisse, les dispositions relatives à cette répression, au plus tard dans les cinq ans de la ratification de la présente Convention.

Dispositions Générales.

ARTICLE XXIX.

La présente Convention sera ratifiée aussitôt que possible.

Les ratifications seront déposées à Berne.

Il sera dressé du dépôt de chaque ratification un procès-verbal dont une copie, certifiée conforme, sera remise par la voie diplomatique à toutes les Puissances contractantes.

ARTICLE XXVI.

The Signatory Governments will take the necessary measures to instruct their troops, especially the personnel protected, in the provisions of the present Convention, and to bring them to the notice of the civil population.

Chapter VIII.—*Prevention of Abuses and Infractions.*

ARTICLE XXVII.

The Signatory Governments, in countries the legislation of which is not at present adequate for the purpose, undertake to adopt or to propose to their legislative bodies such measures as may be necessary to prevent at all times the employment of the emblem or the name of the Red Cross or Geneva Cross by private individuals or by Societies other than those which are entitled to do so under the present Convention, and in particular for commercial purposes as a trade-mark or trading mark.

The prohibition of the employment of the emblem or the names in question shall come into operation from the date fixed by each legislature, and at the latest five years after the present Convention comes into force. From that date it shall no longer be lawful to adopt a trade-mark or trading mark contrary to this prohibition.

ARTICLE XXVIII.

The Signatory Governments also undertake to adopt, or to propose to their legislative bodies, should their military law be insufficient for the purpose, the measures necessary for the repression in time of war of individual acts of pillage and maltreatment of the wounded and sick of armies, as well as for the punishment, as an unlawful employment of military insignia, of the improper use of the Red Cross flag and armlet (brassard) by officers and soldiers or private individuals not protected by the present Convention.

They shall communicate to one another, through the Swiss Federal Council, the provisions relative to these measures of repression at the latest within five years from the ratification of the present Convention.

General Provisions.

ARTICLE XXIX.

The present Convention shall be ratified as soon as possible. The ratifications shall be deposited at Berne.

When each ratification is deposited a *procès-verbal* shall be drawn up, and a copy thereof certified as correct shall be forwarded through the diplomatic channel to all the Contracting Powers.

ARTICLE XXX.

La présente Convention entrera en vigueur pour chaque Puissance six mois après la date du dépôt de sa ratification.

ARTICLE XXXI.

La présente Convention, dûment ratifiée, remplacera la Convention du 22 Août 1864 dans les rapports entre les États contractants.

La Convention de 1864 reste en vigueur dans les rapports entre les Parties qui l'ont signée et qui ne ratifieraient pas également la présente Convention.

ARTICLE XXXII.

La présente Convention pourra, jusqu'au 31 Décembre prochain, être signée par les Puissances représentées à la Conférence qui s'est ouverte à Genève le 11 Juin 1906, ainsi que par les Puissances non représentées à cette Conférence qui ont signé la Convention de 1864.

Celles de ces Puissances qui, au 31 Décembre 1906, n'auront pas signé la présente Convention, resteront libres d'y adhérer par la suite. Elles auront à faire connaître leur adhésion au moyen d'une notification écrite adressée au Conseil fédéral suisse et communiquée par celui-ci à toutes les Puissances contractantes.

Les autres Puissances pourront demander à adhérer dans la même forme, mais leur demande ne produira effet que si, dans le délai d'un an à partir de la notification au Conseil fédéral celui-ci n'a reçu d'opposition de la part d'aucune des Puissances contractantes.

ARTICLE XXXIII.

Chacune des Parties contractantes aura la faculté de dénoncer la présente Convention. Cette dénonciation ne produira ses effets qu'un an après la notification faite par écrit au Conseil fédéral suisse; celui-ci communiquera immédiatement la notification à toutes les autres Parties contractantes.

Cette dénonciation ne vaudra qu'à l'égard de la Puissance qui l'aura notifiée.

EN FOI DE QUOI, les Plénipotentiaires ont signé la présente Convention et l'ont revêtue de leurs cachets.

Fait à Genève, le six Juillet mil neuf cent six, en un seul exemplaire, qui restera déposé dans les archives de la Confédération suisse, et dont des copies, certifiées conformes, seront remises par la voie diplomatique aux Puissances contractantes.

[*Signatures.*]

ARTICLE XXX.

The present Convention shall come into force for each Power six months after the date of the deposit of its ratification.

ARTICLE XXXI.

The present Convention, duly ratified, shall replace the Convention of the 22nd August 1864 in relations between the Contracting States. The Convention of 1864 remains in force between such of the parties who signed it who may not likewise ratify the present Convention.

ARTICLE XXXII.

The present Convention may be signed until the 31st December next by the Powers represented at the Conference which was opened at Geneva on the 11th June 1906, as also by the Powers, not represented at that Conference, which signed the Convention of 1864.

Such of the aforesaid Powers as shall have not signed the present Convention by the 31st December 1906 shall remain free to accede to it subsequently. They shall notify their accession by means of a written communication addressed to the Swiss Federal Council, and communicated by the latter to all the Contracting Powers.

Other Powers may apply to accede in the same manner, but their request shall only take effect if within a period of one year from the notification of it to the Federal Council no objection to it reaches the Council from any of the Contracting Powers.

ARTICLE XXXIII.

Each of the Contracting Powers shall be at liberty to denounce the present Convention. The denunciation shall not take effect until one year after the written notification of it has reached the Swiss Federal Council. The Council shall immediately communicate the notification to all the other Contracting Parties.

The denunciation shall only affect the Power which has notified it.

In witness whereof, the Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Geneva, the 6th July 1906, in a single copy, which shall be deposited in the archives of the Swiss Confederation, and of which copies certified as correct shall be forwarded to the Contracting Powers through the diplomatic channel.

[*Signatures.*[1]]

1 Great Britain signed under reserve of Articles XXIII., XXVII., XXVIII.

Austria-Hungary signed *ad referendum*, but the Convention has since been approved by the Austrian and Hungarian Governments.

As regards the Corean signatures, the British Government received from the Swiss Minister a notification that by a Declaration dated the 15th October 1906 the Japanese Chargé d'Affaires at Berne stated that, in virtue of the Agreement between Japan and Corea of the 17th November 1905, the Imperial Japanese Government has the right of entirely controlling the foreign relations and affairs of Corea. Consequently the inclusion of Corea in the preamble of the Convention and the signature of the latter by the Japanese Plenipotentiary on behalf of Corea as a separate Contracting Party, being erroneous and incompatible with the aforesaid arrangement, are considered by the Japanese Government as null and void.

Mexico signed *ad referendum*, but the Convention has since been approved by the Mexican Government.

Persia signed under reserve of Article XVIII.

FINAL PROTOCOL OF THE CONFERENCE FOR THE REVISION OF THE GENEVA CONVENTION

(Protocole Final de la Conférence de Revision de la Convention de Genève)

La Conférence convoquée par le Conseil fédéral suisse, en vue de la revision de la Convention internationale, du 22 Août 1864, pour l'amélioration du sort des militaires blessés dans les armées en campagne, s'est réunie à Genève le 11 Juin 1906. Les Puissances dont l'énumération suit ont pris part à la Conférence, pour laquelle Elles avaient désignés les Délégués nommés ci-après :

(*Noms des Délégués.*)

Dans une série de réunions tenues du 11 Juin au 5 Juillet 1906, la Conférence a discuté et arrêté, pour être soumis à la signature des Plénipotentiaires, le texte d'une Convention qui portera la date du 6 Juillet 1906.

En outre, et en conformité de l'article 16 de la Convention pour le règlement pacifique des conflits internationaux, du 29 Juillet 1899, qui a reconnu l'arbitrage comme le moyen le plus efficace et en même temps le plus équitable de régler les litiges qui n'ont pas été résolus par les voies diplomatiques, la Conférence a émis le VŒU suivant :

La Conférence exprime le vœu que, pour arriver à une interprétation et à une application aussi exactes que possible de la Convention de Genève, les Puissances contractantes soumettent à la Cour permanente de La Haye, si les cas et les circonstances s'y prêtent, les différends qui, en temps de paix, s'élèveraient entre elles relativement à l'interprétation de ladite Convention.

Ce VŒU a été voté par les États suivants :

Allemagne, République Argentine, Autriche-Hongrie, Belgique, Bulgarie, Chili, Chine, Congo, Danemark, Espagne (*ad ref.*), États-Unis d'Amérique, États-Unis du Brésil, États-Unis Mexicains, France, Grèce, Guatémala, Honduras, Italie, Luxembourg, Montenegro, Nicaragua, Norvège, Pays-Bas, Pérou, Perse, Portugal, Roumanie, Russie, Serbie, Siam, Suède, Suisse et Uruguay.

Ce VŒU a été rejeté par es États suivants : Corée, Grande-Bretagne et Japon.

EN FOI DE QUOI, les Délégués ont signé le présent Protocole.

Fait a Genève, le six Juillet mil neuf cent six, en un seul exemplaire, qui sera déposé aux archives de la Confédération suisse et dont des copies, certifiées conformes, seront délivrées à toutes les Puissances représentées à la Conférence.

[*Signatures.*]

The Conference convoked by the Swiss Federal Council with a view to the revision of the International Convention of the 22nd August 1864 for the amelioration of the condition of soldiers wounded in armies in the field has assembled at Geneva on the 11th June 1906. The Powers enumerated below have taken part in the Conference, for which purpose they had designated the under-mentioned Delegates :

(*Names of Delegates.*)

In a series of meetings held from the 11th June to the 5th July 1906, the Conference has discussed and drawn up, with a view to its being signed by the Plenipotentiaries, the text of a Convention which shall bear the date 6th July 1906.

In addition, and in accordance with Article XVI. of the Convention for the Pacific Settlement of International Disputes of the 29th July 1899, which recognises arbitration as the most efficacious and the most equitable means for the settlement of disputes which have not been determined diplomatically, the Conference has framed the following Resolution :

The Conference expresses the desire that, in order to arrive at an interpretation and application as exact as possible of the Geneva Convention, the Contracting Powers should submit to the Permanent Court at The Hague, if the cases and the circumstances permit, any differences which may from time to time arise between them relative to the interpretation of the said Convention.

This Resolution has been voted by the following States :

Germany, Argentine Republic, Austria-Hungary, Belgium, Bulgaria, Chile, China, Congo, Denmark, Spain (*ad ref.*), United States of America, United States of Brazil, United States of Mexico, France, Greece, Guatemala, Honduras, Italy, Luxemburg, Montenegro, Nicaragua, Norway, Netherlands, Peru, Persia, Portugal, Roumania, Russia, Servia, Siam, Sweden, Switzerland, and Uruguay.

This Resolution has been declined by the following States : Corea, Great Britain, and Japan.

In witness whereof, the Delegates have signed the present Protocol.

Done at Geneva, the 6th July 1906, in a single copy, which shall be deposited in the archives of the Swiss Confederation, and of which copies, certified as correct, shall be delivered to all the Powers represented at the Conference.

[*Signatures.*[1]]

[1] Spain signed *ad referendum*.

6. DECLARATION OF PARIS

(*April* 16, 1856)

Les Plénipotentiaires qui ont signé le Traité de Paris du 30 mars 1856, réunis en Conférence,

Considérant :

Que le droit maritime, en temps de guerre, a été, pendant long temps, l'objet de contestations regrettables ;

Que l'incertitude du droitet des devoirs en pareille matière donne lieu, entre les neutres et les belligérants, à des divergences d'opinion qui peuvent faire naître des difficultés sérieuses et même des conflits ;

Qu'il y a avantage, par conséquent, à établir une doctrine uniforme sur un point aussi important ;

Que les plénipotentiaires assemblés au Congrès de Paris, ne sauraient mieux répondre aux intentions dont leurs Gouvernements sont animés, qu'en cherchant à introduire dans les rapports internationaux des principes fixes à cet égard ;

Dûment autorisés, les susdits plénipotentiaires sont convenus de se concerter sur les moyens d'atteindre ce but, et, étant tombés d'accord, ont arrêté la déclaration solennelle ci-après :

1°. La course est et demeure abolie ;

2°. Le pavillon neutre couvre la marchandise ennemie, à l'exception de la contrebande de guerre ;

3°. La marchandise neutre, à l'exception de la contrebande de guerre, n'est pas saisisable sous pavillon ennemi ;

4°. Les blocus, pour être obligatoires, doivent être effectifs, c'est-à-dire maintenus par une force suffisante pour interdire réellement l'accès du littoral de l'ennemi.

Les Gouvernements des Plénipotentiaires soussignés s'engagent à porter cette déclaration à la connaissance des États qui n'ont pas été appelés à participer au Congrès de Paris et à les inviter à y accèder.

Convaincus que les maximes qu'ils viennent de proclamer ne sauraient être accueillies qu'avec gratitude par le monde entier, les Plénipotentiaires soussignés ne doutent pas que les efforts de leurs Gouvernements pour en généraliser l'adoption ne soient couronnés d'un plein succès.

La présente déclaration n'est et ne sera obligatoire qu'entre les Puissances qui y ont ou qui y auront accédé.

Fait à Paris, le seize avril mil huit cent cinquante-six.

(Signatures.)

"The Plenipotentiaries who signed the Treaty of Paris of March 30, 1856, assembled in Conference,

"Considering :—That maritime law in time of war has long been the subject of deplorable disputes ;

"That the uncertainty of the law and of the duties in such a matter gives rise to differences of opinion between neutrals and belligerents which may occasion serious difficulties, and even conflicts ; that it is consequently advantageous to establish a uniform doctrine on so important a point ;

"That the Plenipotentiaries assembled in Congress at Paris cannot better respond to the intentions by which their Governments are animated, than by seeking to introduce into international relations fixed principles in this respect.

"The above-mentioned Plenipotentiaries, being duly authorised, resolved to concert among themselves as to the means of attaining this object ; and having come to an agreement, have adopted the following solemn declaration :

"1. Privateering is and remains abolished ;

"2. The neutral flag covers enemy's goods, with the exception of contraband of war ;

"3. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag ;

"4. Blockades, in order to be binding, must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy.

"The Governments of the undersigned Plenipotentiaries engage to bring the present Declaration to the knowledge of the States which have not taken part in the Congress of Paris, and to invite them to accede.

"Convinced that the maxims which they now proclaim cannot but be received with gratitude by the whole world, the undersigned Plenipotentiaries doubt not that the efforts of their Governments to obtain the general adoption thereof will be crowned with full success.

"The present Declaration is not and shall not be binding, except between those Powers who have acceded, or shall accede, to it.

"Paris, *April* 16, 1856."

(Signatures.)

ADDITIONAL PROTOCOL TO THE CONVENTION RELATIVE TO THE ESTABLISHMENT OF AN INTERNATIONAL COURT OF PRIZE

(*Signed at The Hague, 19th September* 1910)

Germany, the United States of America, the Argentine Republic, Austria-Hungary, Chile, Denmark, Spain, France, Great Britain, Japan, Norway, the Netherlands, and Sweden,

Powers Signatory to The Hague Convention, dated 18th October 1907, for the establishment of an International Court of Prize,

Considering that for some of these Powers difficulties of a constitutional nature prevent the acceptance of the said Convention in its present form,

Have deemed it expedient to agree upon an additional Protocol, taking into account these difficulties without jeopardising any legitimate interest, and have, to that end, appointed as their Plenipotentiaries, to wit:

[Names of Plenipotentiaries.]

ARTICLE I.

The Powers Signatory or adhering to The Hague Convention of 18th October 1907, relative to the establishment of an International Court of Prize, which are prevented by difficulties of a constitutional nature from accepting the said Convention in its present form, have the right to declare in the instrument of ratification or adherence that in the prize cases, whereof their national courts have jurisdiction, recourse to the International Court of Prize can only be exercised against them in the form of an action in damages for the injury caused by the capture.

ARTICLE II.

In the case of recourse to the International Court of Prize in the form of an action for damages, Article VIII. of the Convention is not applicable; it is not for the Court to pass upon the validity or the nullity of the capture, nor to reserve or affirm the decision of the national Tribunals.

If the capture is considered illegal, the Court determines the amount of damages to be allowed, if any, to the claimants.

ARTICLE III.

The conditions to which recourse to the International Court of Prize is subject by the Convention are applicable to the action in damages.

ARTICLE IV.

Under reserve of the provisions hereinafter stated, the rules of procedure established by the Convention for recourse to the International Court of Prize shall be observed in the action in damages.

ARTICLE V.

In derogation of Article XXVIII., paragraph 1, of the Convention, the suit for damages can only be brought before the International Court of Prize by means of a written declaration addressed to the International Bureau of the Permanent Court of Arbitration; the cases may even be brought before the Bureau by telegram.

ARTICLE VI.

In derogation of Article XXIX. of the Convention, the International Bureau shall notify directly, and if possible by telegram, the Government of the belligerent captor of the declaration of action brought before it.

The Government of the belligerent captor, without considering whether the prescribed periods of time have been observed, shall, within seven days of the receipt of the notification, transmit to the International Bureau the case appending thereto a certified copy of the decision, if any, rendered by the national Tribunal.

ARTICLE VII.

In derogation of Article XLV., paragraph 2, of the Convention, the Court rendering its decision, and notifying it to the parties to the suit, shall send directly to the Government of the belligerent captor the record of the case submitted to it, appending thereto a copy of the various intervening decisions as well as a copy of the minutes of the preliminary proceedings.

ARTICLE VIII.

The present additional Protocol shall be considered as forming an integral part of, and shall be ratified at the same time as the Convention.

If the declaration provided for in Article I. hereinabove is made in the instrument of the ratification, a certified copy thereof shall be inserted in the *procès-verbal* of the deposit of ratifications referred to in Article LII., paragraph 3, of the Convention.

ARTICLE IX.

Adherence to the Convention is subordinated to adherence to the present additional Protocol.

In faith of which, etc. etc.

7. OXFORD MANUAL ON NAVAL WAR (1913)

PROPOSED LAWS OF MARITIME WAR IN RESPECT OF THE RELATIONS BETWEEN BELLIGERENTS

(Les lois de la guerre maritime dans les rapports entre belligérants)

Manual adopted by the Institute of International Law

(*Manuel adopté par l'Institut de droit international*)

OXFORD SESSION, 1913[1]

(SESSION D'OXFORD, 1913)[1]

PRÉAMBULE.

L'Institut de droit international, dans sa session de Christiania, a déclaré maintenir fermement ses Résolutions antérieures en ce qui concerne l'abolition de la capture et de la confiscation de la propriété privée ennemie dans la guerre maritime. Mais, constatant, en même temps, que l'acceptation de ce principe n'est pas encore acquise et considérant qu'aussi longtemps qu'elle ne le sera pas, le règlement du droit de capture est indispensable, il a chargé une Commission d'élaborer des dispositions prévoyant l'une et l'autre éventualité. C'est en exécution de cette dernière décision que l'Institut a, dans sa session d'Oxford, le 9 août 1913, adopté, en premier lieu, le Manuel qui suit, fondé sur le droit de capture.[2]

[1] Ce Manuel a été adopté à l'unanimité des 54 membres et associés présents, sauf une abstention, après cinq jours de délibérations.

[2] DÉFINITIONS.—La *capture* est l'acte par lequel le commandant du bâtiment de guerre substitue son autorité à celle du capitaine du navire ennemi sous réserve du jugement ultérieur de la juridiction des prises quant au sort définitif du navire et de sa cargaison.

La *saisie*, lorsqu'elle s'applique au navire, est l'acte par lequel le bâtiment de guerre prend possession du navire arrêté, avec ou sans l'assentiment du capitaine de celui-ci. La saisie diffère de la capture en ce que le sort ultérieur du navire peut n'être pas en cause quant à l'éventualité de sa confiscation.

Appliquée aux marchandises seules, la saisie est l'acte par lequel le bâtiment de guerre, avec ou sans l'assentiment du capitaine du navire arrêté, prend possession de ces marchandises et les détient ou en dispose sous réserve du jugement ultérieur de la juridiction des prises.

La *confiscation* est l'acte par lequel la juridiction des prises valide la capture d'un navire ou la saisie de marchandises.

Le mot *prise* est une expression générale s'appliquant au navire capturé ou à la marchandise saisie. Il désigne également le fait de s'emparer, d'un bâtiment de guerre.

Sont désignés comme *navires publics* tous navires autres que les bâtiments de guerre qui, appartenant à l'État ou à des particuliers, sont affectés à un service public et se trouvent sous les ordres d'un fonctionnaire dûment commissionné de l'État.

PREAMBLE.

The Institute of International Law, at its Christiania Session, declared that it adhered firmly to its previous Resolutions relating to the abolition of the capture and confiscation of private property of the enemy in maritime war. But recognising at the same time that this principle has not yet been accepted, and considering that so long as it has not been accepted the regulation of the right of capture is indispensable, it entrusted to a committee the task of elaborating provisions in view of both alternatives.

In execution of this decision, the Institute at its Oxford Session, on the 9th August 1913, adopted in the first instance the following Manual, based on the right of capture.[2]

[1] This Manual was adopted unanimously by the 54 members and associates present, with the exception of one abstention, after deliberations extending over five days.

[2] DEFINITIONS.—*Capture* is the act by which the commander of a ship of war substitutes his authority for that of a captain of an enemy's ship, under reserve of the ultimate prize jurisdiction, with respect to the definite fate of the ship and its cargo.

Seizure, as applied to the ship, is the act by which the ship of war takes possession of the arrested ship, with or without the consent of the captain of the latter. Seizure differs from capture in that the ultimate fate of the ship may not be at issue in the event of its confiscation.

As applied to merchandise alone, seizure is the act by which the ship of war, with or without the consent of the captain of the arrested ship, takes possession of this merchandise and detains it or disposes of it under reserve of the ultimate judgment of the prize jurisdiction.

Confiscation is the act by which the prize jurisdiction renders valid the capture of a ship or the seizure of merchandise.

The word prize is a general expression applied to the ship captured or the merchandise seized. It is applied also to the act of taking possession of a war-ship.

Public ships are all ships other than ships of war which, belonging to a State or to private individuals, are affected to public service, and are under the orders of an official duly commissioned by the State.

[1] At the suggestion of a friend who will probably take a prominent part in the formulating of the law of naval war when constructive work recommences, I have left a page for notes and added a translation which I have had made of the Manual into English.

SECTION I.

Des lieux où des hostilités peuvent être commises.

Article 1. Les règles spéciales à la guerre maritime ne sont applicables qu'à la pleine mer et aux eaux territoriales des belligérants à l'exclusion des eaux qui, sous le rapport de la navigation, ne doivent pas être considérées comme maritimes.

SECTION II.

De la force armée des États belligérants.

Article 2. *Bâtiments de guerre.*—Font partie de la force armée d'un État belligérant et sont, dès lors, soumis comme tels aux lois de la guerre maritime :

1°. Tous bâtiments appartenant à l'État qui, sous la direction d'un commandant militaire et montés par un équipage militaire, portent, avec autorisation, le pavillon et la flamme de la marine militaire ;

2°. Les navires transformés par l'État en bâtiments de guerre conformément aux Articles 3 à 6.

Article 3. *Transformation des navires publics et privés en bâtiments de guerre.*—Aucun navire transformé en bâtiment de guerre ne peut avoir les droits et les obligations attachés à cette qualité, s'il n'est placé sous l'autorité directe, le contrôle immédiat et la responsabilité de la puissance dont il porte le pavillon.

Article 4. Les navires transformés en bâtiments de guerre doivent porter les signes extérieurs distinctifs des bâtiments de guerre de leur nationalité.

Article 5. Le commandant doit être au service de l'État et dûment commissionné par les autorités compétentes ; son nom doit figurer sur la liste des officiers de la flotte militaire.

Article 6. L'équipage doit être soumis aux règles de la discipline militaire.

Article 7. Tout navire transformé en bâtiment de guerre est tenu d'observer dans ses opérations les lois et coutumes de la guerre.

Article 8. Le belligérant qui transforme un navire en bâtiment de guerre doit, le plus tôt possible, mentionner cette transformation sur la liste des bâtiments de sa flotte militaire.

Article 9. La transformation d'un navire en bâtiment de guerre ne peut être faite par un belligérant que dans ses propres eaux, dans celles d'un État allié également belligérant, dans celles de l'adversaire, ou enfin dans celles d'un territoire occupé par les troupes de l'un de ces États.

Article 10. *Transformation des bâtiments de guerre en navires publics ou privés.*—Un bâtiment de guerre ne peut, tant que durent les hostilités, être transformé en navire public ou en navire privé.

SECTION I.

Of the Places where Hostilities may be carried on.

Article 1. The special rules relating to maritime war are only applicable to the open sea and the territorial waters of the belligerents, to the exclusion of those waters which, in respect of navigation, cannot be considered as maritime.

SECTION II.

Of the Armed Forces of Belligerent States.

Article 2. *Ships of war.*—The following shall form part of the armed force of a belligerent State, and shall consequently be subject as such to the laws of maritime war :

1. All ships belonging to the State which, under the direction of a military commander and manned by a military crew, shall carry, having been authorised, the ensign and pennant of the military marine ;

2. Ships transformed by the State into ships of war in conformity with Articles 3 to 6.

Article 3. *Conversion of public and private vessels into ships of war.*—No vessel transformed into a war-ship can have the rights and obligations attributed to this quality, unless it is placed under the direct authority, the immediate control, and the responsibility of the power the flag of which it carries.

Article 4. Vessels transformed into war-ships must bear the external marks which distinguish the war-ships of their nationality.

Article 5. The commander must be in the service of the State and duly commissioned by the competent authorities ; his name must appear in the list of officers of the military fleet.

Article 6. The crew must be subject to the rules of military discipline.

Article 7. Every vessel transformed into a ship of war is bound to observe in its operations the laws and customs of war.

Article 8. The belligerent which transforms a vessel into a ship of war must, as soon as possible, enter this transformation in the list of ships of its military fleet.

Article 9. The conversion of a vessel into a ship of war can only be effected by a belligerent in its own waters, in those of an allied State also a belligerent, in those of the enemy, or, lastly, in those of a territory occupied by the troops of one of such States.

Article 10. *Conversion of ships of war into public or private vessels.*—A ship of war cannot, so long as hostilities are pending, be converted into a public vessel or a private vessel.

Article 11. *Personnel belligérant.*—Font partie de la force armée d'un État belligérant et sont, dès lors, soumis comme tels aux lois de la guerre maritime, en tant qu'ils accomplissent des opérations sur mer :

1°. Le personnel des bâtiments indiqués à l'Article 2 ;

2°. Les troupes de l'armée de mer, active ou de réserve ;

3°. Le personnel militarisé existant sur les côtes ;

4°. Les troupes régulières ou régulièrement organisées conformément à l'Article 1er du Règlement de La Haye du 18 octobre 1907 concernant les lois et coutumes de la guerre sur terre, autres que celles de l'armée de mer.

Article 12. *Course, navires privés, navires publics ne constituant pas des bâtiments de guerre.*—La course est interdite.

En dehors des conditions déterminées aux Articles 3 et suivants, les navires publics et les navires privés, ainsi que leur personnel, ne peuvent pas se livrer à des actes d'hostilité contre l'ennemi.

Il est toutefois permis aux uns et aux autres d'employer la force pour se défendre contre l'attaque d'un navire ennemi.

Article 13. *Population du territoire non occupé.*—La population d'un territoire non occupé qui, à l'approche de l'ennemi, arme spontanément des navires pour le combattre, sans avoir eu le temps de les faire transformer en bâtiments de guerre conformément aux Articles 3 et suivants, sera considérée comme belligérante, si elle agit ouvertement et si elle respecte les lois et usages de la guerre.

SECTION III.

Des moyens de nuire à l'ennemi.

Article 14. *Principe.*—Les belligérants n'ont pas un droit illimité quant au choix des moyens de nuire à l'ennemi.

Article 15. *Moyens perfides et barbares.*—Les ruses de guerre sont considérées comme licites. Toutefois, les moyens qui impliquent la perfidie sont défendus.

Ainsi il est interdit :

1°. De tuer ou de blesser par trahison des individus appartenant à la partie adverse ;

2°. D'user indûment du pavillon parlementaire, de faire usage de faux pavillons, uniformes ou insignes, quels qu'ils soient, notamment de ceux de l'ennemi, ainsi que des signes distinctifs de l'assistance hospitalière indiqués aux Articles 41 et 42.

Article 16. Outre les prohibitions qui seraient établies par des conventions spéciales, il est interdit :

1°. D'employer du poison ou des armes empoisonnées, ainsi que des projectiles qui ont pour but unique de répandre des gaz asphyxiants ou délétères ;

Article 11. *Belligerent "personnel."*—The following shall form part of the armed forces of a belligerent State, and are consequently subject, as such, to the laws of maritime war, in so far as they carry on operations at sea :

1. Crews of ships specified in Article 2 ;

2. Troops of the marine, whether active or reserve ;

3. The "personnel" under military discipline on the coast ;

4. The regular troops of those regularly organised in conformity with Article 1 of the Regulations of The Hague of the 18th October 1907, relating to the laws and customs of war on land other than the marine force.

Article 12. *Privateering, private vessels, public vessels not being ships of war.*—Privateering is forbidden.

Apart from the conditions laid down in Articles 3 *et seq.*, public vessels and private vessels, as well as their crews, may not commit acts of hostility against the enemy.

It is, however, permitted for both to employ force to defend themselves against attack by an enemy ship.

Article 13. *Population of unoccupied territory.*—The population of non-occupied territory, which on the approach of the enemy spontaneously man vessels to oppose it without having had time to convert them into war-ships in accordance with Article 3 *et seq.*, shall be considered as belligerent if it acts openly and respects the laws and usages of war.

SECTION III.

Of the Methods of Injuring the Enemy.

Article 14. *Principles.*—Belligerents have not an unlimited right of choice of methods of injuring the enemy.

Article 15. *Treacherous and barbarous methods.*—Ruses of war are considered as allowable. Nevertheless, methods involving treachery are forbidden.

Thus it is forbidden :

1. To kill or wound in a treacherous manner persons belonging to the other side ;

2. To make an improper use of flags of truce, of false flags, uniforms or badges, whatever they may be, and particularly of those of the enemy, as also of the distinctive marks of hospital service mentioned in Articles 41 and 42.

Article 16. In addition to such prohibitions as are provided for by special conventions, it is forbidden :

1. To use poison or poisoned weapons, or projectiles, the sole object of which is to give out asphyxiating or deleterious gases ;

2°. D'employer des armes, des projectiles ou des matières propres à causer des maux superflus. Rentrent spécialement dans cette catégorie les projectiles explosibles ou chargés de matières fulminantes ou inflammables, d'un poids inférieur à 400 grammes, et les balles qui s'épanouissent ou s'aplatissent facilement dans le corps humain, telles que les balles à enveloppe dure dont l'enveloppe ne couvrirait pas complètement le noyau ou serait pourvue d'incisions.

Article 17. Il est également interdit :

1°. De tuer ou de blesser un ennemi qui, ayant mis bas les armes ou n'ayant plus les moyens de se défendre, s'est rendu à discrétion ;

2°. De couler un navire qui s'est rendu, avant d'avoir recueilli l'équipage ;

3°. De déclarer qu'il ne sera pas fait de quartier.

Article 18. Le pillage et la dévastation sont interdits.

Il est interdit de détruire des propriétés ennemies, hors les cas où ces destructions seraient impérieusement commandées par les nécessités de la guerre ou autorisées par les dispositions du présent règlement.

Article 19. *Torpilles.* — Il est interdit de faire usage de torpilles qui ne deviennent pas inoffensives lorsqu'elles auront manqué leur but.

Article 20. *Mines sous-marines.*—Il est interdit de placer en pleine mer des mines automatiques de contact, amarrées ou non.

Article 21. Les belligérants peuvent placer des mines dans leurs eaux territoriales et dans celles de l'ennemi.

Mais il leur est interdit, même dans ces eaux territoriales :

1°. De placer des mines automatiques de contact non amarrées, à moins qu'elles ne soient construites de manière à devenir inoffensives une heure au maximum après que celui qui les a placées en aura perdu le contrôle ;

2°. De placer des mines automatiques de contact amarrées qui ne deviennent pas inoffensives dès qu'elles auront rompu leurs amarres.

Article 22. Un belligérant ne peut placer des mines devant les côtes et les ports de son adversaire que pour des buts navals et militaires. Il lui est interdit de les y placer pour établir ou maintenir un blocus de commerce.

Article 23. Lorsque des mines automatiques de contact, amarrées ou non amarrées, sont employées, toutes les précautions doivent être prises pour la sécurité de la navigation pacifique.

Les belligérants pourvoiront notamment, dans la mesure du possible, à ce que les mines deviennent inoffensives après un laps de temps limité.

Dans le cas où les mines cesseraient d'être surveillées par eux, les belligérants signaleront les régions dangereuses, aussitôt

2. To make use of arms, projectiles, or things capable of inflicting unnecessary injury—and in this are specially included explosive projectiles, or those charged with fulminating or inflammable matter, of a weight lower than 400 grammes, or bullets which expand or flatten easily in the body, such as bullets with a hard casing which does not entirely cover the core, or is pierced with incisions.

Article 17. It is also forbidden :

1. To kill or wound an enemy who, having laid down his arms or having no longer the means of defending himself, has surrendered at discretion ;

2. To sink a vessel which has surrendered before having taken off the crew ;

3. To declare that no quarter will be given.

Article 18. Pillage and devastation are forbidden.

It is forbidden to destroy the property of the enemy, except in cases where such destruction is imperatively required by the necessities of war or authorised by the terms of the present regulations.

Article 19. *Torpedoes.*—It is forbidden to use torpedoes which do not become harmless when they have missed their aim.

Article 20. *Submarine mines.*—It is forbidden to place on the high sea (*en pleine mer*) automatic contact mines, whether moored or not.

Article 21. Belligerents may place mines in their territorial waters or in those of the enemy.

But it is forbidden, even in territorial waters :

1. To place automatic contact mines not moored, unless they are so constructed as to become harmless at most one hour after those who have placed them have lost control over them ;

2. To place moored automatic contact mines which do not become harmless as soon as they have broken from their mooring.

Article 22. A belligerent may only place mines on the coasts or ports of the enemy for naval and military purposes. It is forbidden to place them there in order to establish or maintain a commercial blockade.

Article 23. When automatic contact mines anchored, moored or not, are used, all precautions must be taken for the security of peaceful navigation.

Belligerents must especially, so far as possible, arrange that the mines become harmless after a limited lapse of time.

Where mines have ceased to be under their supervision, belligerents shall notify the dangerous points, so far as military exigencies will permit, by

que les exigences militaires le permettront, par un avis à la navigation, qui devra être aussi communiqué aux gouvernements par la voie diplomatique.

Article 24. A la fin de la guerre, les États belligérants feront tout ce qui dépend d'eux pour enlever, chacun de son côté, les mines qu'ils auront placées.

Quant aux mines automatiques de contact amarrées que l'un des belligérants aurait laissées sur les côtes de l'autre, l'emplacement en sera notifié à l'autre partie par l'État qui les aura posées, et chaque État devra procéder, dans le plus bref délai, à l'enlèvement des mines qui se trouvent dans ses eaux.

Les États belligérants auxquels incombe l'obligation d'enlever les mines après la fin de la lutte devront, dans le plus bref délai possible, faire connaître que l'enlèvement de ces mines a été terminé dans la mesure du possible.

Article 25. *Bombardement.*—Il est interdit de bombarder des ports, villes, villages, habitations ou bâtiments qui ne se défendent pas.

Une localité ne peut pas être bombardée à raison du seul fait que, devant ses côtes, se trouvent mouillées des mines sous-marines automatiques de contact.

Article 26. Toutefois, ne sont pas compris dans cette interdiction les ouvrages militaires, établissements militaires ou navals, dépôts d'armes ou de matériel de guerre, ateliers et installations propres à être utilisés pour les besoins de la flotte ou de l'armée ennemie et les bâtiments de guerre se trouvant dans le port. Le commandant d'une force navale pourra, après sommation avec délai raisonnable, les détruire par le canon, si tout autre moyen est impossible et lorsque les autorités locales n'auront pas procédé à cette destruction dans le délai fixé.

Il n'encourt aucune responsabilité dans ce cas pour les dommages involontaires qui pourraient être occasionnés par le bombardement.

Si des nécessités militaires, exigeant une action immédiate, ne permettaient pas d'accorder de délai, il reste entendu que l'interdiction de bombarder une ville qui ne se défend pas subsiste comme dans le cas énoncé dans l'alinéa 1er et que le commandant prendra toutes les dispositions voulues pour qu'il en résulte pour cette ville le moins d'inconvénients possibles.

Article 27. Est interdit le bombardement, pour le non paiement des contributions en argent ou pour le refus d'obtempérer à des réquisitions de vivres ou d'approvisionnements, des ports, villes, villages, habitations ou bâtiments qui ne se défendent pas.

Article 28. Dans le bombardement, toute dévastation inutile reste interdite et, notamment, toutes les mesures doivent être prises par le commandant de la force assaillante pour épargner, autant que possible, les édifices consacrés aux cultes, aux arts,

notice to navigation, which should also be communicated to Governments through the diplomatic channel.

Article 24. On the termination of war, the belligerent States shall do all in their power, each for its own side, to remove the mines placed by them.

With respect to moored automatic contact mines which one of the belligerents shall have left on the coasts of the other, the locality shall be notified to the other party by the State which shall have laid them, and each State shall proceed, in as short a delay as possible, to the removal of the mines in its waters.

The belligerent States on whom the obligation rests to remove the mines on the termination of hostilities shall, as soon as possible, give notice that the mines have removed so far as can be done.

Article 25. *Bombardment.*—It is forbidden to bombard ports, towns, villages, dwellings or buildings which offer no defence.

A place cannot be bombarded for the sole reason that submarine automatic contact mines are moored off its shores.

Article 26. There shall not, however, be included in this prohibition, military works, military or naval establishments, depots of arms or of material of war, workshops or erections capable of being utilised for the necessities of the hostile fleet or army and the ships of war being in the port. The commander of a naval force may, after summons and reasonable delay, destroy them with guns, if no other means are available, and if the local authorities have not proceeded to their destruction within the time fixed.

He incurs no responsibility in this event for involuntary damage which may be caused by the bombardment.

In the event of military exigencies requiring immediate action allowing of no delay, it is understood that the prohibition to bombard a town which offers no defence, subsists, as in the case mentioned in the first paragraph, and the commander must take all necessary measures in order that as little inconvenience as possible may be caused to the town.

Article 27. Bombardment for the non-payment of money contributions, or for the refusal to comply with requisitions for food or supplies of ports, towns, villages, dwellings or buildings which offer no defence, is forbidden.

Article 28. In a bombardment all useless devastation is forbidden, and especially all steps must be taken by the commander of the attacking force to spare, so far as possible, buildings devoted to worship, to arts, science and

aux sciences et à la bienfaisance, les monuments historiques, les hôpitaux et les lieux de rassemblement de malades ou de blessés, à condition qu'ils ne soient pas employés en même temps à un but militaire.

Le devoir des habitants est de désigner ces monuments, ces édifices ou lieux de rassemblement, par des signes visibles, qui consisteront en grands panneaux rectangulaires rigides, partagés, suivant une des diagonales, en deux triangles de couleur, noire en haut et blanche en bas.

Article 29. Sauf le cas où les exigences militaires ne le permettraient pas, le commandant de la force navale assaillante doit, avant d'entreprendre le bombardement, faire tout ce qui dépend de lui pour avertir les autorités.

Article 30. *Blocus.*—Les ports et côtes de l'ennemi ou occupés par lui peuvent être soumis à un blocus conformément aux règles du droit international.

SECTION IV.

Des droits et des devoirs du belligérant en ce qui concerne les choses de l'ennemi.

Article 31. **A.** *Navires et cargaisons. Bâtiments de guerre.*—La force armée d'un État peut attaquer, pour s'en emparer ou les détruire, avec leur armement et leurs approvisionnements, les bâtiments de guerre de l'ennemi, même s'ils se trouvent, au début de la lutte, dans un port de l'État, ou sont rencontrés en mer dans l'ignorance des hostilités, ou si la force majeure les a contraints d'entrer dans un port ou les a jetés sur les côtes du dit État.

Article 32. *Navires publics et navires privés. Arrêt, visite et recherches.*—Tous navires autres que ceux de la marine de guerre, qu'ils appartiennent à l'État ou à des particuliers, peuvent être sommés par un bâtiment de guerre belligérant de s'arrêter pour qu'il soit procédé, à leur bord, à une visite et à des recherches.

Le bâtiment de guerre du belligérant, pour inviter le navire à s'arrêter, tirera un coup de canon de semonce à poudre et, si cet avis n'est pas suffisant, il tirera un projectile dans l'avant du navire. Auparavant ou en même temps, le bâtiment de guerre hissera son pavillon au dessus duquel, en temps de nuit, un fanal sera placé. Le navire répond au signal en hissant son propre pavillon et en s'arrêtant aussitôt; dans ce cas, le bâtiment de guerre enverra au navire arrêté une chaloupe montée par un officier accompagné d'un nombre d'hommes suffisant, dont deux ou trois seulement se rendront avec l'officier à bord du navire arrêté.

La visite consiste en premier lieu dans l'examen des papiers de bord.

charity, historical monuments, hospitals and places of refuge for sick and wounded, on condition that such places are not at the same time used for military purposes.

It is the duty of the inhabitants to indicate these monuments, buildings and places of refuge by visible signs, consisting in large, stiff, rectangular panels divided by diagonals into two triangles, coloured black above and white below.

Article 29. Except in cases where military exigencies do not permit, the commander of the naval attacking force must, before commencing the bombardment, do all in his power to warn the authorities.

Article 30. *Blockade.*—The ports and coasts of the enemy or those occupied by the enemy may be blockaded in accordance with the rules of international law.

SECTION IV.

Of the Rights and Duties of a Belligerent with respect to Enemy Property.

Article 31. **A.** *Vessels and cargoes. Ships of war.*—The armed forces of a State may attack, for the purpose of seizing or destroying them, with their equipment and supplies, the ships of war of the enemy, even if found, at the commencement of hostilities, in a port of the State, or are met with at sea in ignorance of the hostilities having commenced, or if they have been compelled by *force majeure* to enter a port or have been wrecked on the coast of the said State.

Article 32. *Public and private vessels. Arrest, visit and search.*—All vessels other than those belonging to the navy, whether belonging to the State or to private individuals, may be summoned by a belligerent ship of war to stop in order that they may be boarded for the purpose of visit or search.

In order to request the vessel to stop, the ship of war shall fire a blank cartridge as summons, and if this notice does not suffice, shall fire a projectile across the bows of the vessel.

Before this or simultaneously, the ship of war shall hoist its flag, above which at night-time a light shall be placed. The vessel shall reply to the signal by hoisting its flag and at once stopping; thereupon the ship of war shall send to the vessel a boat manned by an officer and a sufficient number of men, of whom two or three only shall go with the officer on board the vessel.

The inspection, in the first place, consists in the examination of the ship's papers.

Si les papiers de bord sont insuffisants ou ne sont pas de nature à exclure les soupçons, l'officier qui opère la visite est en doit de procéder à des recherches sur le navire, et il doit requérir à cet effet le concours du capitaine.

La visite des paquebots-poste doit, comme il est dit à l'Article 53, être effectuée avec tous les ménagements et toute la célérité possibles.

Les navires convoyés par un bâtiment de guerre neutre ne sont soumis à la visite que dans la mesure des règles relatives aux convois.

Article 33. *Principe de la capture.*—Les navires publics et les navires privés, de nationalité ennemie, sont sujets à capture, et les marchandises ennemies, publiques ou privées, qui existent à leur bord, sont passibles de saisie.

Article 34. La capture et la saisie sont admises alors même que les navires ou les marchandises sont tombés au pouvoir du belligérant à la suite d'une force majeure, par naufrage ou relâche forcée.

Article 35. Sont passibles de saisie les navires qui ne possèdent aucuns papiers de bord, ont caché ou détruit intentionnellement ceux qu'ils possédaient ou en présentent de faux.

Article 36. *Atténuations au principe de la capture.*—Lorsqu'un navire public ou privé relevant d'une des puissances belligérantes se trouve, au début des hostilités, dans un port ennemi, il lui est permis de sortir librement, immédiatement ou après un délai suffisant, et de gagner directement, après avoir été muni d'un laisser-passer, son port de destination ou tel autre port qui lui sera désigné.

Il en est de même du navire ayant quitté son dernier port de départ avant le commencement de la guerre et entrant dans un port ennemi sans connaître les hostilités.

Article 37. Le navire public ou privé qui, par suite de circonstances de force majeure, n'aurait pu quitter le port ennemi pendant le délai visé à l'Article précédent, ne peut être capturé.

Le belligérant peut seulement le saisir moyennant l'obligation de le restituer après la guerre sans indemnité, ou le réquisitionner moyennant indemnité.

Article 38. Les navires ennemis, publics ou privés, qui ont quitté leur dernier port de départ avant le commencement de la guerre et qui sont rencontrés en mer ignorants des hostilités, ne peuvent être capturés. Ils sont seulement sujets à être saisis, moyennant l'obligation de les restituer après la guerre sans indemnité, ou à être réquisitionnés, ou même à être détruits, à charge d'indemnité et sous obligation de pourvoir à la sécurité des personnes ainsi qu'à la conservation des papiers de bord.

Néanmoins, au cas où ces navires seraient rencontrés en mer avant l'expiration d'un délai suffisant à accorder par le belligérant, la saisie ne peut être opérée. Les navires ainsi rencontrés sont

If the ship's papers are incomplete or are not of a nature to exclude suspicion, the officer conducting the inspection has a right to search the vessel, and for this purpose he may demand the assistance of the captain.

The inspection of mail packets should, as specified in Article 53, be carried out as delicately and as quickly as possible.

Vessels convoyed by a neutral man of war are only subject to inspection within the terms of the regulations relating to convoys.

Article 33. *Principle of capture.*—Public and private vessels of enemy nationality are subject to capture, and enemy goods, whether public or private, which are found on board are liable to seizure.

Article 34. Capture and seizure are permitted even if the vessels or goods have fallen under the power of the belligerent by reason of *force majeure*, shipwreck or unavoidable putting into port.

Article 35. Vessels having no ship's papers on board, or which have hidden or intentionally concealed theirs, or submit false papers, are liable to seizure.

Article 36. *Relaxation of the principle of capture.*—When a public or private vessel belonging to one of the belligerent powers is found, at the commencement of hostilities, in a hostile port, it shall be allowed to depart freely, immediately or within a reasonable period, and to proceed direct, after having been supplied with a permit, to its port of destination or such other port as may be appointed to it.

The vessel which has left its last port of departure before the commencement of the war, and which enters an enemy port in ignorance of hostilities having been commenced, shall be treated in the same manner.

Article 37. A public or private vessel, which by reason of *force majeure* has not been able to leave the enemy port within the time provided by the preceding Article, shall not be captured.

The belligerent may only seize it, subject to the obligation of restoring it after the war without compensation, or may requisition paying compensation.

Article 38. Vessels belonging to the enemy, whether public or private, which have left their last port of departure before the commencement of the war, and which are met with at sea in ignorance of hostilities, cannot be captured. They are only liable to seizure, subject to the obligation of being restored after the war without compensation, or to be requisitioned or even destroyed, compensation to be paid and subject to the obligation of providing for the safety of the persons on board and the preservation of the ship's papers.

Nevertheless, in the event of such vessels being met with at sea before the expiration of a reasonable time to be granted by the belligerent, the seizure

libres de gagner leur port de destination ou tel autre port qui leur serait désigné.

Après avoir touché à un port de leur pays ou à un port neutre, ces navires sont soumis au droit de capture.

Article 39. Les marchandises ennemies se trouvant à bord des navires saisis par application des Articles 37 et 38 peuvent également être retenues. Elles seront restituées après la guerre sans indemnité, sauf à être réquisitionnées moyennant indemnité.

Il en est de même des marchandises ayant le caractère de contrebande de guerre qui se trouvent à bord des navires visés aux Articles 36, 37 et 38, alors même que ces navires ne sont pas soumis à la saisie.

Article 40. Dans tous les cas visés aux Articles 36, 37 et 38, les navires publics ou privés dont la construction indique qu'ils sont destinés à être transformés en bâtiments de guerre, peuvent être saisis ou réquisitionnés moyennant indemnité. Ces navires seront restitués après la guerre.

Les marchandises qui se trouvent à bord de ces navires seront traitées d'après les règles de l'Article 39.

Article 41. *Exceptions aux principes des Articles 31 et 33. Bâtiments hospitaliers.*—Sont respectés et ne peuvent être saisis pendant la durée des hostilités les bâtiments-hopitaux militaires, c'est à dire les bâtiments construits ou aménagés par les États spécialement et uniquement en vue de porter secours aux blessés, malades et naufragés, et dont les noms auront été communiqués, à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage, aux puissances belligérantes.

Les bâtiments-hôpitaux militaires seront distingués par une peinture extérieure blanche avec une bande horizontale verte d'un mètre et demi de largeur environ.

Les embarcations des bâtiments qui viennent d'être mentionnés, comme les petits bâtiments qui pourront être affectés au service hospitalier, se distingueront par une peinture analogue.

Tous les bâtiments hospitaliers se feront reconnaitre en hissant, avec leur pavillon national, le pavillon blanc à croix rouge prévu par la Convention de Genève.

Les bâtiments et embarcations ci-dessus mentionnés, qui veulent s'assurer, la nuit, le respect auquel ils ont droit, ont, avec l'assentiment du belligérant qu'ils accompagnent, à prendre les mesures nécessaires pour que la peinture qui les caractérise soit suffisamment apparente.

Les signes distinctifs prévus au présent Article ne pourront être employés que pour protéger ou désigner les bâtiments mentionnés.

Ces bâtiments ne peuvent être utilisés pout aucun but militaire.

Ils ne devront gêner en aucune manière les mouvements des combattants.

cannot be made. Vessels thus met with are free to gain their port of destination or such other port to which they may be directed.

After having touched at a port of their own country or at a neutral port, these vessels are subject to the right of capture.

Article 39. Enemy goods found on board vessels seized by application of Articles 37 and 38 may also be retained. They shall be restored after the war without indemnity, subject to be requisitioned with indemnity.

Goods of the nature of contraband of war found on board vessels specified in Articles 36, 37 and 38 shall be subject to the same regulations, even if these vessels are not subject to seizure.

Article 40. In all cases specified in Articles 36, 37 and 38, public or private vessels, the construction of which indicates that they are destined to be converted into ships of war, may be seized or requisitioned subject to indemnity. These vessels shall be restored after the war.

Goods found on board these vessels shall be dealt with in accordance with the rules of Article 39.

Article 41. *Exceptions to the principles laid down in Articles 31 and 33. Hospital-ships.*—Military hospital-ships, that is to say, vessels constructed or fitted up by States specially and solely for the purpose of succouring the wounded, sick and shipwrecked, and the names of which shall have been communicated to the belligerent powers at the commencement or during the course of hostilities, or in any event before being employed, shall be respected and shall not be subject to seizure during the course of hostilities.

Military hospital-ships shall be distinguished by being painted white on the outside with a horizontal green band about a metre and a half in breadth.

The boats of the above-mentioned vessels, as well as small craft devoted to hospital service, shall be distinguished in the same manner.

All hospital-ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross as provided by the Geneva Convention.

The vessels and boats above mentioned which desire to be respected at night-time in the manner to which they are entitled must, with the consent of the belligerent they accompany, take the necessary steps that the colour which distinguishes them be sufficiently conspicuous.

The distinctive marks, specified in this Article, may only be employed to protect or indicate the vessels mentioned.

These vessels may not be employed for any military purpose.

They must in no way hinder the operations of the combatants.

Pendant et après le combat, ils agiront à leurs risques et périls.

Les belligérants auront sur eux le droit de contrôle et de visite; ils pourront refuser leur concours, leur enjoindre de s'éloigner, leur imposer une direction déterminée et mettre à bord un commissaire, même les détenir, si la gravité des circonstances l'exigeait.

Autant que possible, les belligérants inscriront sur le journal du bord des bâtiments hospitaliers les ordres qu'ils leur donneront.

Les bâtiments hospitaliers qui, dans les termes du présent Article, sont détenus par l'ennemi auront à rentrer le pavillon national du belligérant dont ils relèvent.

Article 42. Les bâtiments hospitaliers, équipés en totalité ou en partie aux frais des particuliers ou des sociétés de secours officiellement reconnues, sont également respectés et exempts de saisie, si la puissance belligérante dont ils dépendent leur a donné une commission officielle et en a notifié les noms à la puissance adverse à l'ouverture ou au cours des hostilités, en tout cas avant toute mise en usage.

Ces navires doivent être porteurs d'un document de l'autorité compétente déclarant qu'ils ont été soumis à son contrôle pendant leur armement et à leur départ final.

Les bâtiments dont il s'agit seront distingués par une peinture extérieure blanche avec une bande horizontale rouge d'un mètre et demi de largeur environ.

Ils sont soumis aux règles établies pour les bâtiments-hôpitaux militaires par l'Article 41.

Article 43. Dans le cas d'un combat à bord d'un vaisseau de guerre, les infirmeries et leur matériel seront respectés et ménagés autant que faire se pourra. Tout en demeurant soumis aux lois de la guerre, ils ne pourront être détournés de leur emploi, tant qu'ils seront nécessaires aux blessés et malades. Le commandant qui les a en son pouvoir a cependant la faculté d'en disposer, en cas de nécessité militaire importante, en assurant le sort des blessés et malades qui s'y trouvent.

Article 44. La protection due aux bâtiments hospitaliers et aux infirmeries des vaisseaux cesse si l'on en use pour commettre des actes nuisibles à l'ennemi. N'est pas considéré comme étant de nature à justifier le retrait de la protection le fait que le personnel de ces bâtiments et de ces infirmeries est armé pour le maintien de l'ordre et pour la défense des blessés ou malades, ainsi que le fait de la présence à bord d'une installation radio-télégraphique.

Article 45. *Navires de cartel.*—Ne peuvent être saisis, pendant qu'ils remplissent leur mission, les navires, dits de cartel, qui font office de parlementaires, même s'ils appartiennent à la marine militaire.

During and after the fighting they act at their own risk and peril.

The belligerents shall have the right to control and visit them; they may refuse assistance, order them to move farther away, make them take any particular direction, and place a commissioner on board or even detain them, if the gravity of the circumstances necessitate such a course.

The belligerents shall, so far as possible, enter on the log of hospital-ships the orders given to them.

Hospital-ships which, by the terms of this Article, are detained by the enemy must lower the national flag of the belligerent to whom they belong.

Article 42. Hospital-ships, equipped wholly or partly at the expense of private persons or of aid Societies officially recognised, are also respected and exempt from seizure if the belligerent power to which they belong has given them an official commission and has notified their names to the hostile power at the commencement or during the course of hostilities, and in any case before being utilised.

These vessels shall carry a document from the competent authority declaring that they have been subject to its control during their outfitting and on their final departure.

The vessels in question shall be distinguished by being painted white outside with a horizontal red band of about a metre and a half in breadth.

They shall be subject to the rules laid down for military hospital-ships by Article 41.

Article 43. In the case of a fight on board a war-ship the sick wards and their belongings shall be respected and spared as far as possible. While remaining subject to the laws of war, they cannot be diverted from their object so long as required for the wounded and sick. The commander under whose power they are may, however, dispose of them in case of important military necessity, whilst assuring the safety of the wounded and sick on board.

Article 44. The protection to which hospital-ships and sick wards of vessels are entitled ceases if they are used for doing anything hurtful to the enemy. The fact that the staff of these ships and sick wards are armed for the purpose of maintaining order and for the defence of the wounded and sick, as also the fact of the existence on board of a radio-telegraphic installation, are not considered as justifying the withdrawal of protection.

Article 45. *Cartel-ships.*—Ships, known as cartel-ships, acting as *parlementaires*, even if they belong to military marine, cannot be seized so long as they are fulfilling their mission.

Est considéré comme navire de cartel, le navire autorisé par l'un des belligérants à entrer en pourparlers avec l'autre et se présentant avec un pavillon blanc.

Le chef auquel un navire de cartel est expédié n'est pas obligé de le recevoir en toutes circonstances. Il peut prendre toutes les mesures nécessaires afin d'empêcher le navire de cartel de profiter de sa mission pour se renseigner. Il a le droit, en cas d'abus, de retenir temporairement le navire de cartel.

Le navire de cartel perd ses droits d'inviolabilité, s'il est prouvé, d'une manière positive et irrécusable, que le commandant a profité de la position privilégiée de ce navire pour provoquer ou commettre un acte de trahison.

Article 46. *Navires chargés de missions.*—Son exempts de saisie les navires chargés de missions religieuses, scientifiques ou philanthropiques.

Article 47. *Bateaux affectés à la pêche côtière et à la petite navigation locale.*—Les bateaux exclusivement affectés à la pêche côtière, ou à des services de petite navigation locale, y compris ceux exclusivement affectés au pilotage ou au service des phares, comme aussi les navires destinés à naviguer principalement sur les fleuves, canaux et lacs, sont exempts de saisie, ainsi que leurs engins, agrès, apparaux et chargements.

Il est interdit de profiter du caractère inoffensif des dits bateaux pour les employer dans un but militaire en leur conservant leur apparence pacifique.

Article 48. *Navires munis d'un sauf-conduit ou d'une licence.*—Sont exempts de saisie les navires ennemis pourvus d'un sauf-conduit ou d'une licence.

Article 49. *Cessation des immunités.*—Les exceptions visées dans les Articles, 41, 42, 45, 46, 47 et 48 cessent d'être applicables si les navires qui en font l'objet participent d'une façon quelconque aux hostilités ou commettent d'autres actes qui sont interdits aux neutres comme assistance hostile.

Il en est de même si, sommés de s'arrêter pour être soumis à la visite, ils essayent de s'y soustraire par la force ou par la fuite.

Article 50. *Droits du belligérant dans la zone de ses opérations.*—Alors qu'il n'aurait pas le droit de les saisir ou de les capturer, un belligérant peut, même en haute mer, défendre aux navires de l'ennemi d'entrer dans la zone correspondant à la sphère d'action actuelle de ses opérations.

Il peut aussi leur interdire dans cette zone certains actes susceptibles de nuire à son action, notamment certains actes de communication, comme par exemple la télégraphie sans fil.

La simple infraction à ces interdictions entraînera le refoulement, même par la force, du navire hors de la zone interdite et le sequestre des appareils. Le navire, s'il est établi qu'il a com-

A vessel authorised by one of the belligerents to enter into *pourparlers* with the other and carrying a white flag is considered as a cartel-ship.

The commanding officer to whom a cartel-ship is despatched is not bound to receive it under all circumstances. He may take all necessary steps to prevent the cartel-ship from taking advantage of its mission to obtain information. In case of abuse, he has the right temporarily to detain the cartel-ship.

The cartel-ship loses its rights of immunity if it is proved in a positive and irrefutable manner that its commander has profited by its privileged position to provoke or commit an act of treachery.

Article 46. *Vessels employed on missions.* — Vessels entrusted with religious, scientific or philanthropic missions are exempt from seizure.

Article 47. *Boats employed in coast fishing and small local navigation.*— Boats exclusively employed in coast fishing or in petty local navigation, including those exclusively employed in pilotage or the lighthouse service, as also vessels engaged chiefly in navigating rivers, canals and lakes, are exempt from seizure as well as their appliances, rigging, fittings and cargoes.

It is forbidden to utilise the inoffensive character of such boats by employing them for military purposes, whilst preserving their peaceful appearance.

Article 48. *Vessels furnished with a safe-conduct or licence.*—Hostile vessels furnished with a safe-conduct or licence are exempt from seizure.

Article 49. *Cessation of immunity.*—The exemptions, specified in Articles 41, 42, 45, 46, 47 and 48 cease to be operative if the vessels, therein dealt with, take part in any manner whatever in hostilities or commit other acts forbidden to neutrals as constituting hostile assistance.

The same applies if, when summoned to stop in order to be subjected to visit, they attempt to escape by force or by flight.

Article 50. *The rights of the belligerent within the area of his operations.* —Although he may not have the right to seize or capture them, a belligerent may, even on the high seas, forbid vessels of the enemy to come within a zone corresponding to the then sphere of action of his operations.

It may also forbid within this zone certain acts prejudicial to his action, especially certain acts of communication, such as, for example, wireless telegraphy.

Any infringement of these prohibitions will entail the removal, even by force, of the vessel out of the forbidden zone and the sequestration of its appliances. If it is proved that the vessel has communicated with the enemy

muniqué avec l'ennemi pour lui fournir des renseignements sur la conduite des hostilités, pourra être considéré comme s'étant mis à son service et sera par suite passible de capture ainsi que ses appareils.

Article 51. *Du caractère ennemi.*—Le caractère ennemi ou neutre d'un navire est déterminé par le pavillon qu'il a le droit de porter.

Le caractère ennemi ou neutre des marchandises trouvées à bord d'un navire ennemi est déterminé par le caractère ennemi ou neutre de leur propriétaire.

Chaque État doit déclarer, au plus tard dès le début des hostilités, si le caractère ennemi ou neutre du propriétaire des marchandises est déterminé par le domicile ou par la nationalité de ce propriétaire.

Le caractère ennemi de la marchandise trouvée à bord d'un navire ennemi subsiste jusqu'à l'arrivée à destination, nonobstant un transfert intervenu pendant le cours de l'expédition, après l'ouverture des hostilités.

Toutefois, si, antérieurement à la capture, un précédent propriétaire neutre exerce, en cas de faillite du propriétaire ennemi actuel, un droit de revendication légale sur la marchandise, celle-ci reprend le caractère neutre.

Article 52. *Du transfert de pavillon.*—Le transfert sous pavillon neutre d'un navire ennemi, effectué avant l'ouverture des hostilités, est valable, à moins qu'il soit établi que ce transfert a été effectué en vue d'éluder les conséquences qu'entraine le caractère de navire ennemi. Il y a néanmoins présomption de nullité si l'acte de transfert ne se trouve pas à bord, alors que le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités; la preuve contraire est admise.

Il y a présomption absolue de validité d'un transfert effectué plus de trente jours avant l'ouverture des hostilités, s'il est absolu, complet, conforme à la législation des pays intéressés, et s'il a cet effet que le contrôle du navire et le bénéfice de son emploi ne restent pas entre les mêmes mains qu'avant le transfert. Toutefois, si le navire a perdu la nationalité belligérante moins de soixante jours avant l'ouverture des hostilités, et si l'acte de transfert ne se trouve pas à bord, la saisie du navire ne pourra donner lieu à des dommages et intérêts.

Le transfert sous pavillon neutre d'un navire ennemi, effectué après l'ouverture des hostilités, est nul, à moins qu'il soit établi que ce transfert n'a pas été effectué en vue d'éluder les conséquences qu'entraîne le caractère de navire ennemi.

Toutefois, il y a présomption absolue de nullité: 1°. si le transfert a été effectué pendant que le navire est en voyage ou dans un port bloqué; 2°. s'il y a faculté de réméré ou de retour; 3°. si les conditions, auxquelles est soumis le droit de pavillon

for the purpose of supplying him with information as to the conduct of hostilities, the vessel may be considered as having placed itself at his service and shall be consequently liable to capture, together with its appliances.

Article 51. *Of enemy character.*—The enemy or neutral character of a vessel is determined by the flag which it has a right to carry.

The enemy or neutral character of the merchandise found on board a hostile vessel is determined by the enemy or neutral character of its owner.

Each State must declare, at latest from the commencement of hostilities, whether the enemy or neutral character of the owner of the merchandise is determined by the domicile or by the nationality of such owner.

The enemy character of the merchandise found on board an enemy vessel subsists until its arrival at its destination, notwithstanding any transfer which may have taken place while it was being forwarded after the commencement of hostilities.

Nevertheless, if, previous to the capture, a former neutral owner, in the event of the bankruptcy of the then enemy owner, exercises a right of legal claim to the merchandise, it resumes its neutral character.

Article 52. *Of change of flag.*—A transfer to a neutral flag of a hostile vessel effected before the opening of hostilities is valid, unless it is proved that the transfer was made for the purpose of evading the consequences entailed by the enemy character of the vessel. There is, however, a presumption that the transfer is void, if the document of transfer is not on board a vessel which has lost its belligerent nationality less than sixty days before the commencement of hostilities; proof to the contrary is admissible.

There is an absolute presumption of the validity of a transfer effected more than thirty days before the commencement of hostilities, provided it is unconditional, complete and in accordance with the laws of the countries concerned, and provided its effect is such that the control of the vessel and the profits of its employment do not remain in the same hands as before the transfer. Nevertheless, if the vessel has lost the belligerent nationality less than sixty days before the commencement of hostilities, and if the document constituting the transfer is not found on board, the seizure of the vessel shall give no right to claim damages.

The transfer to a neutral flag of an enemy vessel, made after the commencement of hostilities, is void, unless it is proved that it has not been made for the purpose of evading the consequences which the nature of an enemy vessel entails.

Nevertheless, there is an absolute presumption of nullity (1) if the transfer has been made during the voyage or in a blockaded port; (2) if there is a right of redemption or return; (3) if the conditions to which the right to carry

d'après la législation du pavillon arboré, n'ont pas été observées.

Article 53. **B.** *Correspondance postale.*—La correspondance postale, quel que soit son caractère officiel ou privé, trouvée en mer sur un bâtiment ennemi, est inviolable, à moins qu'elle ne soit à destination ou en provenance d'un port bloqué.

L'inviolabilité de la correspondance postale ne soustrait pas les paquebots-poste aux lois et coutumes de la guerre sur mer concernant les navires en général. Toutefois la visite n'en doit être effectuée qu'en cas de nécessité avec tous les ménagements et toute la célérité possibles.

S'il y a saisie du navire sur lequel la poste est embarquée, la correspondance est expédiée avec le moins de retard possible par le capteur.

Article 54. **C.** *Câbles sous-marins.*—Les États belligérants ne sont autorisés à saisir ou à détruire, dans les conditions déterminées ci-dessous, que les câbles sous-marins reliant leurs territoires ou deux points de ces territoires, et les câbles reliant le territoire d'un des pays en guerre à un territoire neutre.

Le câble reliant les territoires des deux belligérants ou deux parties du territoire d'un des belligérants peut être saisi ou détruit partout, excepté dans les eaux d'un État neutre.

Le câble reliant un territoire neutre au territoire d'un des belligérants ne peut, en aucun cas, être saisi ou détruit dans les eaux dépendant d'un territoire neutre. En haute mer, ce câble ne peut être saisi ou détruit que s'il y a blocus effectif et dans les limites de la ligne de blocus, sauf rétablissement du câble dans le plus bref délai possible. Ce câble peut toujours être saisi ou détruit sur le territoire et dans la mer territoriale dépendant d'un territoire ennemi jusqu'à une distance de trois milles marins de la laisse de basse marée. La saisie ou la destruction ne peut jamais avoir lieu que dans le cas de nécessité absolue.

En ce qui concerne l'application des règles précédentes, il n'y a pas de différence à établir entre les câbles, selon qu'ils sont des câbles d'État ou qu'ils appartiennent à des particuliers ; il n'y a pas non plus à tenir compte de la nationalité de leurs propriétaires.

Les câbles sous-marins reliant un territoire belligérant à un territoire neutre, qui auront été saisis ou détruits, devront être restitués et les indemnités seront réglées à la paix.

SECTION V.

Des droits et des devoirs du belligérant en ce qui concerne les personnes.

Article 55. **A.** *Personnel des navires. Bâtiments de guerre.*—En cas de prise par l'ennemi d'un bâtiment de guerre, les com-

the flag, under the law of the country of the flag carried is subordinated, have not been complied with.

Article 53. **B.** *Postal correspondence.*—Postal correspondence, whether of an official or private nature, found at sea on an enemy vessel, is inviolable, unless it is destined for or comes from a blockaded port.

The inviolability of correspondence does not relieve mail packets from the laws and customs of war at sea relating to vessels in general. Nevertheless, visits in the case of necessity should be made with all possible consideration and speed.

If the vessel carrying the mail is seized, the correspondence is forwarded by the captor with as little delay as possible.

Article 54. **C.** *Submarine cables.*—Belligerent States are only authorised to seize or destroy, subject to the conditions hereinafter mentioned, the submarine cables connecting their territories or two points of these territories and the cables connecting the territories of one of the countries at war with a neutral territory.

The cable connecting the territories of two belligerents or two parts of the territory of one of the belligerents may be seized or destroyed everywhere, except in the waters of a neutral State.

The cable connecting a neutral territory with the territory of one of the belligerents cannot, in any case, be seized or destroyed in the waters belonging to a neutral territory. On the high seas, this cable can only be seized or destroyed if there is an effective blockade and within the limits of the line of blockade, subject to the cable being reinstated in the shortest possible time. This cable may always be seized or destroyed on the territory and in the territorial waters belonging to an enemy territory to within a distance of three marine miles from low-water mark. The seizure or destruction can only take place in case of absolute necessity.

With respect to the application of the preceding rules, no distinction shall be made within cables, whether they are State cables or belonging to private individuals, nor shall the nationality of their owners be taken into account.

Submarine cables connecting a belligerent to a neutral territory, which have been seized or destroyed, shall be restored and the indemnities payable settled in the terms of peace.

SECTION V.

Of the Rights and Duties of a Belligerent relating to Persons.

Article 55. **A.** *Personnel of vessels. Ships of war.*—In the event of capture by the enemy of a ship of war, the combatants and non-combatants

battants et les non-combattants faisant partie de la force armée des belligérants ont droit au traitement des prisonniers de guerre.

Article 56. *Navires publics ou privés.*—Lorsqu'un navire ennemi public ou privé est saisi par un belligérant, les hommes de son équipage, nationaux d'un État neutre, ne sont pas faits prisonniers de guerre. Il en est de même du capitaine et des officiers, également nationaux d'un État neutre, s'ils promettent formellement par écrit de ne prendre, pendant la durée des hostilités aucun service ayant rapport avec les opérations de la guerre. Le capitaine, les officiers et les membres de l'équipage, nationaux de l'État ennemi, ne sont pas faits prisonniers de guerre, à condition qu'ils s'engagent, sous la foi d'une promesse formelle écrite, à ne prendre, pendant la durée des hostilités, aucun service ayant rapport avec les opérations de la guerre.

Article 57. Les noms des individus laissés libres sous la condition de la promesse prévue par l'Article précédent sont notifiés par le belligérant capteur à l'autre belligérant. Il est interdit à ce dernier d'employer sciemment les dits individus.

Article 58. Toute personne faisant partie de l'équipage d'un navire public ou privé ennemi est, sauf preuve contraire, présumée de nationalité ennemie.

Article 59. Ne peuvent être retenus comme tels les membres du personnel d'un navire ennemi qui, à raison de son caractère particulier, est lui-même exempt de saisie.

Article 60. Lorsqu'un navire public ou privé a directement ou indirectement pris part aux hostilités, l'ennemi peut retenir comme prisonniers de guerre tous les membres du personnel du navire, sans préjudice des pénalités qui peuvent être encourues d'autre part.

Article 61. Les membres du personnel d'un navire public ou d'un navire privé, qui se rendent personnellement coupables d'un acte hostile envers l'ennemi, peuvent être retenus par lui comme prisonniers de guerre, sans préjudice des pénalités qui peuvent être encourues d'autre part.

Article 62. **B.** *Passagers.*—Les individus qui suivent une force navale sans en faire partie, tels que les fournisseurs, correspondants de journaux, etc., lorsqu'ils tombent au pouvoir de l'ennemi, et lorsque celui-ci juge utile de les retenir, ne peuvent être détenus qu'aussi longtemps que les nécessités militaires l'exigent. Ils ont droit au traitement des prisonniers de guerre.

Article 63. Les passagers qui, sans faire partie de l'équipage, se trouvent à bord d'un navire ennemi, ne peuvent être retenus comme prisonniers de guerre par l'ennemi, à moins qu'ils ne se soient rendus coupables d'un acte hostile.

Tout passager incorporé dans la force armée de l'ennemi peut être fait prisonnier de guerre, même si le navire n'est pas susceptible de saisie.

Article 64. **C.** *Personnel religieux, médical et hospitalier.*—

forming part of the armed forces of the belligerents are entitled to treatment as prisoners of war.

Article 56. *Public or private vessels.*—When a public or private enemy vessel is seized by a belligerent, the men of its crew, who are nationals of a neutral State, are not made prisoners of war. The same also applies to the captain and officers, who are nationals of a neutral State, provided they promise formally in writing not to take any service relating to the operations of the war during the continuance of the hostilities. The captain, officers and crew who are nationals of the enemy State are not made prisoners of war, provided they undertake by a formal written promise not to take any service relating to the operations of the war during the continuance of hostilities.

Article 57. The names of the persons liberated under the condition of the promise provided for in the preceding Article are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ such persons.

Article 58. Every person forming part of the crew of a public or private enemy vessel is, subject to proof to the contrary, presumed to be of enemy nationality.

Article 59. The members of the personnel of an enemy vessel which, owing to its special character, is itself exempt from capture may not be detained as such.

Article 60. If a public or private vessel has, directly or indirectly, taken part in the hostilities, the enemy may detain as prisoners of war all the members of the personnel of the vessel, without prejudice to the penalties which in other respects may be incurred.

Article 61. The members of the personnel of a public or private vessel who are personally guilty of an act of hostility against the enemy, may be detained by him as prisoners of war, without prejudice to the penalties which in other respects may be incurred.

Article 62. **B.** *Passengers.*—Persons following a naval force but not forming part of it, such as contractors, newspaper correspondents, etc., when they fall into the power of the enemy, and if the latter considers it advisable to detain them, may only be detained so long as military exigencies shall require. They have the right to be treated as prisoners of war.

Article 63. Passengers who, not forming part of the crew, are on board an enemy vessel, may not be detained by the enemy as prisoners of war, unless they have been guilty of an act of hostility.

Any passenger incorporated in the armed force of the enemy may be made a prisoner of war, even if the vessel is not liable to seizure.

Article 64. **C.** *Religious, medical and hospital staff.*—The religious,

Le personnel religieux, médical et hospitalier de tout bâtiment pris ou saisi est inviolable et ne peut être fait prisonnier de guerre. Il emporte, en quittant le navire, les objets et les instruments de chirurgie qui sont sa propriété particulière.

Ce personnel continuera à remplir ses fonctions tant que cela sera nécessaire et il pourra ensuite se retirer, lorsque le commandant en chef le jugera possible.

Les belligérants doivent assurer à ce personnel tombé entre leurs mains les mêmes allocations et la même solde qu'au personnel des mêmes grades de leur propre marine.

Jouit de la protection dont bénéficie le personnel sanitaire, le commissaire mis par le belligérant à bord du bâtiment hospitalier de son adversaire, conformément à l'alinéa 10 de l'Article 41.

Le personnel religieux, médical et hospitalier, perd ses droits à l'inviolabilité, s'il s'immisce dans les hostilités, si, par exemple, il fait usage de ses armes autrement que comme moyen de défense.

Article 65. **D.** *Parlementaires.*—Le personnel des navires de cartel est inviolable.

Il perd ses droits d'inviolabilité s'il est prouvé d'une manière positive et irrécusable qu'il a profité de sa position privilégiée pour provoquer ou commettre un acte de trahison.

Article 66. **E.** *Espions.*—L'espion, même pris sur le fait, ne peut être puni sans jugement préalable.

Article 67. On ne doit considérer comme espion que l'individu qui, agissant clandestinement ou sous de faux prétextes, et dissimulant ainsi ses opérations, recueille ou cherche à recueillir des informations dans la zone d'opérations d'un belligérant avec l'intention de les communiquer à la partie adverse.

Ne peuvent, dès lors, être réputés espions et sont soumis au traitement des prisonniers de guerre, s'ils sont capturés, les militaires non déguisés qui ont pénétré dans la zone d'opérations de la flotte ennemie à l'effet de recueillir des informations. De même, ne sont pas regardés comme espions les militaires et les non militaires accomplissant ouvertement leur mission, qui sont chargés de transmettre des dépêches, ou qui se livrent à la transmission et à la réception de dépêches par télégraphie sans fil. A cette catégorie appartiennent également les individus envoyés en aéronefs ou en hydroaéroplanes pour faire un service d'exploration dans la zone d'opérations de la flotte ennemie ou pour entretenir des communications.

Article 68. L'espion qui réussit à sortir de la zone correspondant à la sphère d'action actuelle des opérations de l'ennemi, ou qui a rejoint la force armée à laquelle il appartient, n'encourt, s'il tombe plus tard au pouvoir de l'ennemi, aucune responsabilité pour ses actes antérieurs.

medical and hospital staff of any vessel taken or seized is inviolable and cannot be made prisoners of war. When leaving the vessel they take with them the articles and surgical instruments which are their private property.

This staff may continue to perform its duties so long as may be necessary, and may then leave, when the commander-in-chief may decide that it is possible.

The belligerents must guarantee to this staff which has fallen into their hands, the same allowances and pay as is made to the staff of corresponding rank in their own navy.

The commissioner placed by the belligerent on board the hospital vessel of its opponent, in accordance with paragraph 10 of Article 41, is entitled to the same protection as the sanitary staff.

The religious, medical and hospital staff lose their right of inviolability if they take part in the hostilities, for example if they make use of arms otherwise than for the purpose of defence.

Article 65. **D.** *Parlementaires.*—The personnel of cartel-ships is inviolable. It loses its rights of inviolability if it is proved in a positive and irrefutable manner that it has profited by its privileged position to provoke or commit an act of treachery.

Article 66. **E.** *Spies.*—A spy, even when taken in the act, may not be punished without previous judgment.

Article 67. A person shall only be considered to be a spy who, acting clandestinely, or under false pretences, and thus dissimulating his operations, obtains or seeks to obtain information in the zone of operations of a belligerent, with intent to communicate it to the other side.

Military persons not disguised, who have penetrated into the zone of operations of the hostile fleet for the purpose of obtaining information, cannot therefore be considered as spies and, if captured, are treated as prisoners of war. In like manner military and non-military persons openly accomplishing their mission, who are charged with the transmission of despatches, or who are engaged in the receipt of despatches by wireless telegraphy, are not to be considered as spies. To this category also belong persons sent in aeroplanes or hydroaeroplanes for the purpose of exploring in the zone of operations of the enemy fleet or for keeping up communications.

Article 68. The spy who succeeds in getting out of the zone corresponding to the then sphere of action of the operations of the enemy, or who has rejoined the armed force to which he belongs, does not incur, should he fall later within the power of the enemy, any responsibility for his previous acts.

Article 69. **F.** *Réquisition des nationaux de l'État ennemi. Guides, pilotes et otages.*—Le belligérant n'a pas le droit de forcer les individus qui tombent en son pouvoir, et d'une manière générale les nationaux de la partie adverse, à prendre part aux opérations de guerre dirigées contre leur pays, même dans le cas où ils auraient été à son service avant le commencement de la guerre, ainsi que de les contraindre à donner des renseignements sur leur propre État, ses forces, sa position militaire ou ses moyens de défense.

Il ne pourra les obliger à lui servir de guides ou de pilotes.

Il pourra toutefois punir ceux qui sciemment et volontairement se seront offerts pour l'induire en erreur.

Il n'est pas permis de forcer les nationaux d'un belligérant à prêter serment à la puissance ennemie.

Il est interdit de prendre des otages.

Article 70. **G.** *Prisonniers de guerre.*—Les prisonniers de guerre sont au pouvoir du gouvernement ennemi, mais non des individus ou des corps qui les ont capturés.

Ils doivent être traités avec humanité.

Tout ce qui leur appartient personnellement reste leur propriété, excepté les armes, les chevaux, les papiers militaires et en général tous objets spécialement adaptés à un but militaire.

Article 71. Les prisonniers de guerre ne peuvent être assujettis à l'internement sur un navire qu'en cas de nécessité et temporairement.

Article 72. Le gouvernement au pouvoir duquel se trouvent les prisonniers de guerre est chargé de leur entretien.

Article 73. Tous les prisonniers de guerre seront, aussi longtemps qu'ils se trouvent à bord d'un navire, soumis aux lois, règlements et ordres en vigueur dans la flotte de l'État au pouvoir duquel ils se trouvent.

Article 74. Les prisonniers évadés qui seraient repris avant d'avoir pu réussir à sortir de la sphère d'action actuelle de l'ennemi, ou avant d'avoir pu rejoindre la force armée à laquelle ils appartiennent, sont passibles de peines disciplinaires.

Les prisonniers qui, après avoir réussi à s'évader, sont de nouveau faits prisonniers, ne sont passibles d'aucune peine pour la fuite antérieure.

Article 75. Chaque prisonnier de guerre est tenu de déclarer, s'il est interrogé à ce sujet, ses véritables nom et grade, et, dans le cas où il enfreindrait cette règle, il s'exposerait à une restriction des avantages accordés aux prisonniers de guerre de sa catégorie.

Article 76. Les prisonniers de guerre peuvent être mis en liberté sur parole, si les lois de leur pays les y autorisent, et, en pareil cas, ils sont obligés, sous la garantie de leur honneur personnel, de remplir scrupuleusement, tant vis-à-vis de leur

Article 69. **F.** *Requisitions levied on the nationals of the enemy State. Guides, pilots and hostages.*—A belligerent is not entitled to compel persons who fall into his power, and generally all nationals of the opposing party, to take part in the operations of war directed against their country, even where they may have been in its service before the commencement of the war, or to compel them to supply information respecting their own State, its forces, its military position or its means of defence.

It cannot compel them to act for it as guides or pilots.

It may, however, punish those who knowingly and intentionally have offered themselves for the purpose of misleading it. It is not permitted to compel the nationals of a belligerent to swear fealty to the enemy power.

It is forbidden to take hostages.

Article 70. **G.** *Prisoners of war.*—Prisoners of war are in the power of the enemy Government, but not in that of persons or corps which have captured them.

They should be humanely treated. Everything that belongs to them personally remains their property, except arms, horses, military papers and generally all objects specially adapted for military purposes.

Article 71. Prisoners may only be interned on a vessel in case of necessity and temporarily.

Article 72. The Government in whose hands prisoners of war have fallen, is bound to maintain them.

Article 73. All prisoners of war shall, so long as they are on board a vessel, be subject to the laws, regulations and orders in force in the fleet of the State in whose power they may be.

Article 74. Escaped prisoners, recaptured before they have been able to get outside the then sphere of action of the enemy, or before they have been able to rejoin the armed force to which they belong, are subject to disciplinary punishment.

Prisoners who, having succeeded in escaping, are made prisoners again, are not subject to any penalty for their previous flight.

Article 75. Every prisoner of war is bound to declare, if questioned on the point, his true name and rank, and in case of infringement of this rule, he is liable to a curtailment of the advantages granted to prisoners of war of his class.

Article 76. Prisoners of war may be set at liberty on parole, if the laws of their country authorises it, and, in such a case, they are bound, under guarantee of their personal honour, scrupulously to fulfil both as regards their own

propre gouvernement que vis-à-vis de celui qui les a faits prisonniers, les engagements qu'ils auraient contractés.

Dans le même cas, leur propre gouvernement est tenu de n'exiger ni accepter d'eux aucun service contraire à la parole donnée.

Article 77. Un prisonnier de guerre ne peut être contraint d'accepter sa liberté sur parole ; de même le gouvernement ennemi n'est pas obligé d'accéder à la demande du prisonnier réclamant sa mise en liberté sur parole.

Article 78. Tout prisonnier de guerre, libéré sur parole et repris portant les armes contre le gouvernement envers lequel il s'était engagé d'honneur, ou contre les alliés de celui-ci, perd le droit au traitement des prisonniers de guerre et peut être traduit devant les tribunaux, à moins que, postérieurement à sa libération, il n'ait été compris dans un cartel d'échange sans conditions.

Article 79. Les prisonniers de la guerre maritime débarqués sur le territoire continental sont soumis aux règles établies pour les prisonniers de la guerre terrestre.

Les mêmes règles doivent être appliquées, dans la mesure du possible, aux prisonniers de guerre internés sur un navire.

Les règles qui précèdent, dans la mesure où il est possible de les appliquer, doivent être suivies vis-à-vis des prisonniers de guerre dès le moment de leur capture, alors qu'ils sont sur le navire qui les conduit au lieu de leur internement.

Article 80. Après la conclusion de la paix, le rapatriement des prisonniers de guerre s'effectuera dans le plus bref délai possible.

Article 81. **H.** *Blessés, malades, naufragés et morts.*— Les bâtiments employés au service hospitalier porteront secours et assistance aux blessés, malades et naufragés des belligérants sans distinction de nationalité.

Article 82. Dans le cas de prise ou de saisie d'un navire ennemi ou d'un bâtiment hospitalier qui a manqué à ses obligations, les marins et les militaires embarqués et les autres personnes officiellement attachées aux marines ou aux armées, blessés, malades ou naufragés, à quelque nation qu'il appartiennent, seront respectés et soignés par les capteurs.

Article 83. Tout bâtiment de guerre d'une partie belligérante peut réclamer la remise des blessés, malades ou naufragés, qui sont à bord de bâtiments-hôpitaux militaires, de bâtiments hospitaliers de sociétés de secours ou de particuliers, de navires de commerce, yachts et embarcations, quelle que soit la nationalité de ces bâtiments.

Article 84. Sont prisonniers de guerre les naufragés, blessés ou malades d'un belligérant qui tombent au pouvoir de l'autre. Il appartient à celui-ci de décider, suivant les circonstances, s'il convient de les garder, de les diriger sur un port de sa nation,

Government and the Government which made them prisoners, the engagements they have entered into.

In such a case their own Government is bound neither to require nor accept from them any service incompatible with the parole given.

Article 77. A prisoner of war cannot be compelled to accept his liberty on parole ; nor is the enemy Government bound to accede to the demand of a prisoner to be released on parole.

Article 78. Every prisoner of war released on parole, and retaken bearing arms against the Government to which he has pledged his honour, or against its allies, forfeits his right to treatment as prisoner of war and may be brought before the Law Courts, unless after his liberation he had been unconditionally comprised in a cartel of exchange.

Article 79. Maritime prisoners of war who have been landed on continental territory are subject to the regulations laid down for prisoners in warfare on land.

The same regulations shall apply, so far as possible, to prisoners of war interned on a vessel.

The preceding rules, so far as it is possible to apply them, shall be followed with respect to prisoners of war, from the moment of their capture, whilst they are in the vessel bringing them to the place of their internment.

Article 80. After the conclusion of peace the repatriation of prisoners of war shall be effected with as little delay as possible.

Article 81. **H.** *Wounded, sick, shipwrecked and dead.* — The vessels engaged in hospital service shall give succour and assistance to the wounded, sick and shipwrecked of the belligerents without distinction of nationality.

Article 82. In the event of capture or seizure of an enemy vessel, or of a hospital-ship which has failed in its obligations, the sailors and soldiers on board and other persons officially attached to the navy or army, who are wounded, sick or shipwrecked, to whatsoever nation they may belong, shall be respected and cared for by the captors.

Article 83. Any belligerent war-ship may claim the handing over of the wounded, sick or shipwrecked on board military hospital-ships and the ships of relief Societies or private individuals, merchant ships, yachts and boats, whatever may be the nationality of these vessels.

Article 84. The shipwrecked, wounded or sick of a belligerent who shall fall into the power of the other are prisoners of war. It is for the belligerent to decide whether, according to circumstances, it is convenient to retain them, to forward them to a port of its own nation, to a neutral port or even to a

sur un port neutre ou même sur un port de son adversaire. Dans ce dernier cas, les prisonniers ainsi rendus à leur pays ne pourront servir pendant la durée de la guerre.

Article 85. Après chaque combat, les deux parties belligérantes, en tant que les intérêts militaires le comportent, prendront des mesures pour rechercher les naufragés, les blessés et les malades, et pour les faire protéger, ainsi que les morts, contre le pillage et les mauvais traitements.

Elles veilleront à ce que l'inhumation, l'immersion ou l'incinération des morts soit précédée d'un examen attentif de leurs cadavres.

Article 86. Chaque belligérant enverra, dès qu'il sera possible, aux autorités de leur pays, de leur marine ou de leur armée, les marques ou pièces militaires d'identité trouvées sur les morts et l'état nominatif des blessés ou malades recueillis par lui.

Les belligérants se tiendront réciproquement au courant des internements et des mutations, ainsi que des entrées dans les hôpitaux et des décès survenus parmi les blessés et malades en leur pouvoir. Ils recueilleront, pour les faire transmettre aux intéressés par les autorités de leur pays, tous les objets d'un usage personnel, valeurs, lettres, etc., qui seront trouvés dans les navires pris ou saisis, ou qui seront délaissés par les blessés ou malades décédés dans les hôpitaux.

Article 87. En cas d'opérations de guerre entre les forces de terre et de mer des belligérants, les dispositions du présent règlement sur l'assistance hospitalière ne seront applicables qu'aux forces embarquées.

SECTION VI.

Des droits et des devoirs du belligérant en territoire occupé.

Article 88. *Occupation : étendue et effets.*—L'occupation d'un territoire maritime, c'est à dire des golfes, baies, rades, ports et eaux territoriales, n'existe que dans les cas où il y a en même temps occupation du territoire continental, soit par une force navale, soit par une force militaire. L'occupation est, en ce cas, soumise aux lois et usages de la guerre terrestre.

SECTION VII.

Des conventions entre belligérants.

Article 89. *Règles générales.*—Le commandant de toute force navale belligérante peut conclure des conventions de nature purement militaire concernant les forces sous ses ordres.

Il ne peut, sans autorisation de son gouvernement, conclure aucune convention ayant un caractère politique, telle qu'un armistice général.

port of the adversary. In the latter event, the prisoners thus returned to their own country may not serve again during the continuance of hostilities.

Article 85. After every encounter, the two belligerents, so far as military interests permit, will take steps to look for the shipwrecked, the wounded and the sick, and protect them, as well as the dead, against pillage and ill-treatment.

They shall take care that the burial on land or at sea or the cremation of the dead shall be preceded by a careful examination of the corpses.

Article 86. Each belligerent shall, as soon as possible, send to the authorities of their country, their marine or army, the marks or military tokens of identity found on the dead, and a list of the names of the wounded and the sick picked up by it.

The belligerents shall keep each other informed of the internment and changes as also of the entries to hospitals and of the deaths occurring amongst the wounded or sick in their power. They will collect, for the purpose of transmission to the parties interested by the authorities of their country, all personal articles, valuables, letters, etc., which may be found on vessels captured or seized, or which may have been left by the wounded or sick who have died in hospital.

Article 87. In the event of operations of war between the land and sea forces of the belligerents, the provisions of the present regulations relating to hospital assistance shall only be applicable to the forces embarked.

SECTION VI.

Of the Rights and Duties of the Belligerent on Occupied Territory.

Article 88. *Occupation: its extent and effect.*—The occupation of a maritime territory, that is to say, gulfs, bays, roadsteads, ports and territorial waters, can only take place where there is at the same time an occupation of the continental territory, whether by a naval or by a military force. In this event, the occupation is subject to the laws and usages of war on land.

SECTION VII.

Of Agreements between Belligerents.

Article 89. *General rules.*—The commander of any belligerent naval force may enter into conventions of a purely military character relating to the forces under his command.

He cannot, without the authority of his Government, enter into any convention of a political character, such as a general armistice.

Article 90. Toutes conventions entre belligérants doivent tenir compte des règles de l'honneur militaire et, une fois fixées, doivent être scrupuleusement observées par les deux parties.

Article 91. *Capitulation.*—Après avoir conclu une capitulation, le commandant ne peut endommager ni détruire les navires, objets ou approvisionnements en sa possession qu'il doit livrer, à moins que le droit d'agir ainsi ne lui ait été expressément réservé dans la capitulation.

Article 92. *Armistice.*—L'armistice suspend les opérations de guerre.

Les blocus établis au moment de l'armistice ne sont pas levés, à moins d'une stipulation spéciale dans la convention.

Le droit de visite continue à pouvoir être exercé. Le droit de capture cesse hormis les cas où ce droit existerait à l'égard des navires neutres.

Article 93. L'armistice peut être général ou partiel. Le premier suspend partout les opérations de guerre des États belligérants; le second seulement entre certaines fractions des forces belligérantes et dans un rayon déterminé.

Article 94. La convention qui stipule un armistice doit indiquer avec précision le moment où il commence et celui où il doit finir.

L'armistice doit être notifié officiellement et en temps utile par chaque belligérant aux autorités compétentes ainsi qu'aux forces intéressées.

Article 95. Les hostilités sont suspendues au terme fixé par la convention, ou, si un terme n'a pas été établi, immédiatement après la notification de l'armistice.

Si la durée de l'armistice n'a pas été déterminée, les parties belligérantes peuvent reprendre en tout temps les opérations, pourvu toutefois que l'ennemi soit averti en temps utile.

Article 96. Les clauses de l'armistice naval fixeront, au cas où elles admettraient l'accès des bâtiments de guerre des belligérants à certains points du littoral ennemi, les conditions de cet accès et les rapports de ces bâtiments soit avec les autorités locales, soit avec les populations.

Article 97. Toute violation grave de l'armistice par l'une des parties donne à l'autre le droit de le dénoncer et même, en cas d'urgence, de reprendre immédiatement les hostilités.

Article 98. La violation des clauses de l'armistice par des particuliers isolés, agissant de leur propre initiative, donne droit seulement à réclamer la punition des coupables et, s'il y a lieu, une indemnité pour les pertes éprouvées.

Article 99. *Suspension d'armes.*—La suspension d'armes doit, comme l'armistice, fixer avec précision le point de départ de l'arrêt des hostilités et le moment où doit cesser son effet.

S'il n'y a pas de délai fixé pour la reprise des hostilités, le

Article 90. All agreements between belligerents shall be subject to the rules of military honour, and, once made, must be scrupulously observed by both parties.

Article 91. *Capitulation.*—After having concluded a capitulation, the commander cannot damage or destroy vessels, articles or provisions in his possession, which he shall hand over, unless the right of doing so has been expressly reserved to him by the capitulation.

Article 92. *Armistice.*—An armistice suspends the operations of war. Blockades established at the time of the armistice are not raised in the absence of an express stipulation in the agreement.

The right of visit may still be exercised. The right of capture ceases, except where this right exists with respect to neutral vessels.

Article 93. The armistice may be general or partial. The former suspends everywhere operations of war by the belligerent States; the latter only between certain parts of the belligerent forces and within a fixed area.

Article 94. The convention stipulating an armistice must indicate with precision when it commences and when it is to terminate.

The armistice must be notified officially and in reasonable time by each belligerent to the competent authorities, as well as to the forces concerned.

Article 95. Hostilities are suspended at the time fixed by the agreement, or, if no time has been fixed, immediately after the notification of the armistice.

If the duration of the armistice has not been fixed, the belligerents may at any time renew operations, provided the enemy is notified in reasonable time.

Article 96. The terms of a naval armistice shall, where the ships of war of the belligerents are permitted access to certain points of the enemy coast, fix the conditions of such access and the relations of such vessels with both the local authorities and the population.

Article 97. Any serious violation of the armistice by either party gives the other the right to denounce it or even, in case of urgency, at once to renew hostilities.

Article 98. Violation of the terms of the armistice by individual persons, acting on their own initiative, only gives a right to demand the punishment of the guilty persons, and, if thought fit, to an indemnity for the losses sustained.

Article 99. *Suspension of hostilities.*—A suspension of hostilities shall, as in the case of an armistice, fix with precision the starting-point of cessation of hostilities and the time at which it shall come to an end.

If there is no period fixed for the resumption of hostilities, the belligerent

belligérant qui se propose de continuer la lutte doit en prévenir l'ennemi en temps utile.

La rupture d'une suspension d'armes par l'un des belligérants ou par des particuliers isolés entraine les conséquences visées aux Articles 97 et 98.

SECTION VIII.

Des formalités de la saisie et du jugement des prises.

Article 100. *Formalités de la saisie.*—Lorsque, après la visite qui en aura été faite, un navire est reconnu susceptible de capture, l'officier qui en opère la saisie doit :

1°. Mettre sous scellés, après les avoir inventoriés, tous les papiers de bord du navire ;

2°. Dresser un procès-verbal de la saisie, ainsi qu'un inventaire sommaire du bâtiment constatant son état ;

3°. Constater l'état de la cargaison dont il sera dressé un inventaire, puis faire fermer les écoutilles de la cale, les coffres et les soutes et y apposer les scellés, autant que le permettent les circonstances ;

4°. Dresser la liste des personnes trouvées à bord ;

5°. Mettre à bord du navire saisi un équipage suffisant pour s'assurer du navire et y maintenir l'ordre et le conduire dans tel port qu'il appartiendra.

S'il le juge à propos, le capitaine peut, au lieu de détacher un équipage à bord du navire, se borner à l'escorter.

Article 101. En dehors des personnes susceptibles d'être considérées comme prisonniers de guerre ou d'être punies, le belligérant ne peut retenir, sur le navire saisi, que pendant un délai raisonnable, celles qu'il est nécessaire d'entendre comme témoins pour la constatation des faits : à moins d'empêchement absolu il doit les remettre en liberté après que procès-verbal de leurs dépositions a été dressé.

Si des circonstances spéciales le commandent, le capitaine, les officiers et une partie de l'équipage du navire saisi peuvent être pris à bord du capteur.

Le capteur pourvoira à l'entretien des personnes retenues et leur donnera, en tout cas, ainsi qu'aux personnes de l'équipage, lors de leur mise en liberté, les moyens provisoirement nécessaires pour leur entretien ultérieur.

Article 102. Le navire saisi doit être conduit dans un port de l'État capteur ou dans celui d'une puissance belligérante alliée, aussi proche que possible, susceptible d'offrir un abri sûr et ayant des communications faciles avec le tribunal des prises chargé de statuer sur la capture.

Pendant le voyage, la prise naviguera avec le pavillon et la flamme, insigne des navires militaires de l'État.

who intends to continue hostilities must give reasonable notice to the enemy.

The breach of a suspension of hostilities by one of the belligerents or by individual persons entails the consequences provided by Articles 97 and 98.

SECTION VIII.

Of the Formalities of Seizure and Prize Judgments.

Article 100. *Formalities of seizure.*—When, after visit has been effected, a vessel is found liable to capture, the officer conducting the seizure shall :

1. Seal up, after an inventory has been made, all the ship's papers ;

2. Draw up a minute of the seizure as well as a summary statement describing the condition of the vessel ;

3. Describe the state of the cargo, of which an inventory shall be made, then cause the hatches of the hold, the sea-chests and the bunkers to be closed and sealed, so far as circumstances will allow ;

4. Make a list of all persons found on board ;

5. Place on board the vessel seized a sufficient crew to take charge of the vessel, to keep order and to bring it into the port appointed.

Should he think proper, the captain may, instead of putting a crew on board the vessel, confine himself to escorting it.

Article 101. With the exception of the persons liable to be treated as prisoners of war or to be punished, the belligerent may only retain on the vessel seized, and for a reasonable time, those whom it is necessary to retain as witnesses to give evidence on the facts ; unless absolutely prevented, he must set these at liberty as soon as their depositions have been recorded.

Under special circumstances, the captain, the officers and a part of the crew of the vessel seized, may be taken on board the captor.

The captor shall make provision for the maintenance of the persons retained, and in any event shall supply them, as well as the members of the crew, on their liberation, with the means temporarily necessary for their further maintenance.

Article 102. The vessel seized shall be brought into a port of the capturing State, or into that of an allied belligerent power, as near as possible and capable of offering a safe shelter, and in easy communication with the Prize Court which has to deal with the capture.

During the voyage the prize will sail under the flag and pennant of the war-ships of the State.

Article 103. Le navire saisi et la cargaison seront, autant que possible, maintenus intacts durant leur voyage au port.

Si la cargaison comprend des choses susceptibles de se détériorer facilement, le capteur, autant que possible d'accord avec le capitaine du navire saisi et en sa présence, prendra les mesures les plus convenables pour la conservation de ces choses.

Article 104. *Destruction des navires et des marchandises confiscables.*—Il n'est permis aux belligérants de détruire les navires ennemis saisis qu'en tant qu'ils sont sujets à confiscation et en présence d'une nécessité exceptionnelle, c'est-à-dire lorsque l'exigent la sécurité du navire capteur ou le succès des opérations de guerre dans lesquelles celui-ci est actuellement engagé.

Avant la destruction, les personnes qui se trouvent à bord devront être mises en sûreté, et tous les papiers de bord et autres pièces que les intéressés estimeront utiles pour le jugement sur la validité de la capture devront être transbordés sur le navire capteur. Il en sera de même, dans la mesure du possible, pour les marchandises.

Il sera dressé procès-verbal de la destruction du navire capturé et des motifs qui l'ont amenée.

Article 105. Le capteur a la faculté d'exiger la remise ou de procéder à la destruction des marchandises confiscables trouvées à bord d'un navire qui lui-même n'est pas sujet à confiscation, lorsque les circonstances sont telles que, d'après l'Article précédent, elles justifieraient la destruction d'un navire passible de confiscation. Il mentionne les objets livrés ou détruits sur le livre de bord du navire arrêté et se fait remettre par le capitaine copie certifiée conforme de tous papiers utiles. Lorsque la remise ou la destruction a été effectuée et que les formalités ont été remplies, le capitaine doit être autorisé à continuer sa route.

Article 106. *Emploi des navires saisis.*—Si le navire saisi ou sa cargaison est nécessaire au capteur pour un usage public immédiat, il peut les employer à cet usage. Dans ce cas, il sera fait du navire et de la cargaison, par des personnes impartiales, une estimation et un inventaire soigneux qui, joints au dossier de la saisie, seront transmis au tribunal des prises.

Article 107. *Perte des prises par fortune de mer.*—Si une prise est perdue par fortune de mer, on doit constater le fait avec soin. Aucune indemnité n'est due, dans ce cas, ni pour le navire, ni pour le chargement, pourvu que, si la prise est annulée ultérieurement, le capteur puisse prouver que la perte aurait eu lieu même en l'absence de capture.

Article 108. *Rescousse.*—Lorsqu'un navire pris, puis repris, vient à être enlevé au recapteur, le dernier capteur a seul des droits sur lui.

Article 109. *Jugement des prises.*—Le navire saisi et son chargement, une fois entrés dans un port de l'État capteur ou

Article 103. The vessel seized and its cargo will, as far as possible, be kept intact during the voyage to the port.

If the cargo contains articles easily liable to deterioration, the captor will, so far as possible, in agreement with the captain of the vessel seized and in his presence, take the most suitable steps for the preservation of such articles.

Article 104. *Destruction of vessels and merchandise liable to confiscation.*—The belligerents may not destroy the enemy vessels seized, unless they are liable to confiscation and in the case of exceptional necessity, that is to say, where the security of the capturing vessel or the success of the operations of war, in which it is then engaged, require it.

Before destruction, the persons who are found on board shall be placed in safety, and all the ship's papers and other documents which the parties interested may consider necessary for the purposes of judgment as to the validity of the capture shall be transferred to the capturing vessel. So far as possible the same shall apply to the merchandise.

A minute as to the destruction of the vessel captured and of the reasons for so doing shall be drawn up.

Article 105. The captor has the right to require the delivery, or to proceed to the destruction, of merchandise liable to confiscation found on board a vessel which itself is not liable to be confiscated, when the circumstances are such as, in accordance with the preceding Article, would justify the destruction of a vessel liable to confiscation.

He will make an entry of the articles delivered up or destroyed in the log of the vessel arrested, and will require the captain to give a certified copy of all desirable papers.

When the delivery or destruction has been effected, and the formalities complied with, the captain should be authorised to continue his voyage.

Article 106. *Employment of vessels seized.*—If the vessel seized or its cargo is required by the captor for an immediate public service, he may employ them for that purpose. In this event, a valuation and careful inventory shall be made of the vessel and cargo by impartial persons, which, annexed to the file relating to the seizure, will be forwarded to the Prize Court.

Article 107. *Loss of prizes by sea adventure.*—If a prize is lost by sea adventure the fact must be carefully noted. In this case, no indemnity is due either for the vessel or its cargo, provided that, if the prize claim is subsequently dismissed, the captor prove that the loss would have happened even in the absence of capture.

Article 108. *Rescue.*—When a vessel captured, then recaptured, has been taken from the recaptor, the last captor alone has rights in respect of it.

Article 109. *Prize judgments.*—The vessel seized and its cargo, once

dans celui d'une puissance alliée, sont remis à l'autorité compétente, avec tous les documents nécessaires.

Article 110. La légalité et la régularité de la capture des navires ennemis et de la saisie des marchandises doivent être établies devant la juridiction des prises.

Article 111. Toute reprise doit également être jugée par la juridiction des prises.

Article 112. Un État belligérant n'acquerra la propriété du navire ou des marchandises qu'il a saisis durant la guerre qu'au moment où, par une décision devenue définitive, la juridiction des prises aura prononcé à son profit la confiscation de ce navire ou de ces marchandises.

Article 113. Si la saisie du navire ou des marchandises n'est pas validée par la juridiction des prises, ou si, sans qu'il y ait eu de mise en jugement, la saisie n'est pas maintenue, les intéressés ont droit à des dommages et intérêts, à moins qu'il y ait eu des motifs suffisants de saisir le navire ou les marchandises.

Article 114. Dans le cas de destruction d'un navire, le capteur sera tenu d'indemniser les intéressés, s'il n'est pas justifié par lui de la nécessité exceptionnelle de la destruction, ou si, la destruction ayant été justifiée, la capture est ensuite déclarée nulle.

La même règle est applicable dans l'hypothèse prévue à l'Article 105.

Si des marchandises qui n'étaient pas susceptibles de confiscation ont été détruites, le propriétaire de ces marchandises a droit à une indemnité.

Au cas où le capteur a fait emploi du navire ou de la cargaison après la saisie, il devra, si celle-ci est reconnue illégitime, payer aux intéressés une équitable indemnité, d'après les documents dressés au moment de l'emploi.

Article 115. A la différence des navires publics non militaires et des navires privés ennemis, les bâtiments de la marine militaire d'un belligérant pris par son adversaire deviennent, ainsi que leur matériel, la propriété de celui-ci, dès qu'ils sont tombés en sa possession, sans que doive intervenir une décision de la juridiction des prises.

SECTION IX.

De la fin des hostilités.

Article 116. *Paix.*—Les actes d'hostilité doivent cesser par la signature de la paix.

L'avis de la fin de la guerre doit être notifié dans le plus bref délai par chaque gouvernement au commandant de ses forces navales.

Lorsque des actes hostiles ont été accomplis après la signa-

entering a port of the capturing State or that of an allied power, are handed over to the competent authorities with all the necessary documents.

Article 110. The legality and regularity of the capture of enemy vessels and of the seizure of merchandise must be proved before the Prize Court.

Article 111. Every recapture also shall be adjudicated upon by the Prize Court.

Article 112. A belligerent State shall only acquire a property in the vessel or merchandise which has been seized during the war at the moment when, by a final decision, the Prize Court has adjudged in his favour the confiscation of the vessel or merchandise.

Article 113. If the seizure of the vessel or merchandise is not confirmed by the Prize Court, or if, without any judgment having been pronounced, the seizure is not maintained, the parties interested have a claim for damages and interest, unless there had been sufficient reasons for the seizure of the vessel or merchandise.

Article 114. In the event of the destruction of a vessel, the captor shall be bound to indemnify the parties interested, if he is unable to justify the exceptional necessity for its destruction, or if, when the destruction has been justified, the capture is subsequently declared void.

The same rule applies in the case provided for in Article 105.

If merchandise not liable to confiscation has been destroyed, its owner is entitled to be indemnified.

If the captor has made use of the vessel or the cargo after seizure, he shall, if such seizure has been declared illegal, pay to the parties interested an equitable indemnity, in accordance with the documents drawn up at the time of the user.

Article 115. In contradistinction to the case of non-military public vessels and private vessels belonging to the enemy, the war-ships of a belligerent, taken by the adversary, become the property of the latter, as soon as they have come into his possession, without need of the intervention of a Prize Court.

SECTION IX.

Of the Termination of Hostilities.

Article 116. *Peace.*—Acts of hostility must cease on the signature of peace.

Notice of the end of the war shall be given with as little delay as possible by each Government to the commander of its naval forces.

When hostile acts have been committed after the signature of peace, matters shall, so far as possible, be made good.

ture de la paix, on doit, autant que possible, remettre les choses en l'état.

Lorsqu'ils ont été accomplis après connaissance de l'avis officiel du traité de paix, ils donneront lieu à une indemnité et à la punition des coupables.

Article Additionnel.

Conformément à l'Article 3 de la Convention de La Haye du 18 octobre 1907, concernant les lois et coutumes de la guerre sur terre, la partie belligérante qui violerait les dispositions du présent règlement sera tenue à une indemnité, s'il y a lieu ; elle sera responsable de tous actes commis par les personnes faisant partie de sa force armée navale.

If they have been committed after knowledge of the official notice of the treaty of peace, an indemnity and punishment of the guilty may be claimed.

Additional Article.

In accordance with Article 3 of The Hague Convention of October 18, 1907, relating to the laws and customs of war on land, the belligerent party, who shall violate the provisions of these regulations, shall be liable, if due, to pay an indemnity ; it shall be responsible for all acts of persons forming part of its armed naval force.

ALPHABETICAL INDEX

PAGE

Absolute contraband 208

Ackland (Mr.) on Third Hague Conference 36

Aerial Navigation Act, British (1911) 59

African continent, occupation of vacant territory on . . . 69

Agreement between belligerents 294

Aircraft in war 59

Air-vessels, projectiles from 1

Annexation, Institute of International Law on 71

Arbitrable matters 47

Arbitral justice, Hague provision on 109
Court of 23, 41

Arbitration, international, private litigants in 47
compulsory 47
compulsory, principle of, recognised 92
general Treaty of 45
Permanent Court of, Hague provision concerning . . 110 *et seq.*
summary procedure in 120

Armaments, restriction of 31
Germany's attitude on 32

Armistices 140, 296

Asphyxiating gas 1, 266

Aviation and war 29
Institute of International Law on 60

Award, declaration of 119
failure to comply with 124

Barbarous methods of injuring enemy 266

Barnes (Mr.), question in House of Commons in Third Hague Conference 36

Beaufort (Mr. de) and Third Hague Conference . . . 36

Belligerent troops on neutral territory 146

Belligerents' right of search 169

Blockade, naval, conditions of validity of . . . 202 *et seq.*
See Declaration of Paris,

PAGE

Bombardment by naval forces 28, 270
vœu (1899) as to 2
Convention relating to (text) . . . . 160 *et seq.*
on land 138

Bourgeois (M. Leon) on distinction in arbitration between political and legal cases 42

Cables, submarine 142, 284

Campbell, Sir F. A. 58

Campbell-Bannerman's (Sir Henry) statement 4

Capitulation 139, 140, 296

Capture, definition of 262
principle of 274
restrictions on right of 274
of contraband 214
and prize rules applied in Turco-Italian War (text) . . 18

Cargoes, destruction of 300

Carnegie (Andrew), gift of Peace Library by 52

Cartel-ships 278

Casus Belli, restriction of 22

Chile and Argentina, arrangement between, as to armaments (1902) . 32

Choate (Mr.) on expensiveness of Hague procedure . . . 42

Civilians as potential combatants 29

Civilisation, requirements of 130

Coasting vessels 173, 280
fishing, etc., vessels and capture 28

Collective responsibility 141

Commercial expansion, cause of international conflicts . . . 70

Compensation for capture of contraband in certain cases . . 218
where capture not upheld 230

Compromis 124
interpretation by Court of 115
sense of word 98

Compulsory arbitration 47

Conditional contraband 210

Conference, First Hague 1

Conferences of 1907 and 1908–9, estimate of work of . . . 21

Confiscation, definition of 262

Congo, river 65

Constitution, draft, for work of Hague Court and Conferences . . 51

Continuous voyage 17

PAGE

Contraband of war . . . . . 208 *et seq.*

Contractual debts, international recovery of, Convention relating to (text) 124

Convention, First Hague 1

Conventions of 1907, list of 91
between belligerents 294

Conversion of private and public ships into ships of war . . 264
of merchant ships into vessels of war, Convention relating to (text) 153

Convoy 228

Corpus juris gentium vi

Cotton as contraband 16

Court of Arbitral Justice 5, 92

Crews of captured merchant vessels 173

Death certificates of prisoners 317

Debt, international, recovery of 124

Declaration of London . . . . . vii, 13
origin of 11
controversies on . . . . . 13 *et seq.*
practical application of, in Turco-Italian War . . . 18
and war of 1914 19
1909 (text) . . . . . 201 *et seq.*

Declaration of Paris (text) 259

Declaration of War . . . . . 23, 127 *et seq.*

Definition of naval terms 262

Delay of grace 150

Destination, element of, in contraband . . . . 214 *et seq.*

Destruction of vessels 300

Diligence, reasonable. *See* Vigilance.

"Diligence" 193

Drago theory 22

"Due diligence" 24

"Dumdum" bullets 268

Emblem under Geneva Convention 254

Enemy character 226, 282
property 272

Equality of treatment in non-European areas 70
in Morocco, etc. 75

Explosives, discharge of, from aircraft, declaration relating to (text) . 199

PAGE

Fauchille (Prof.), code of maritime warfare, draft by . . . 39

Final Act of Hague Convention (1907) 79

Fishing-boats 173, 280

Fishing, capture of 28

Flag, change of 282

Flags of truce 139

Floating mines 26

"Free list" under rules as to contraband 212

Fry (Sir Edward), resolution on armaments of (1907) . . . 33

General Act of Berlin (1885) 65
Conference (1885) 69

Geneva Convention, 1906 (text) 247
adaptation of, to naval warfare (text) . . 23, 164 *et seq.*

Gifts to prisoners 137

Good offices, Hague provisions on 103

Hague Conference (First), composition of 1
(Second) invitation to 2
(Second) answers to invitation to 4
(Second) composition of 4
(Second) *vœux* adopted 5
(Second) preparatory work for, insufficient 7
(Third) preparatory committees for v
(Third) *vœu* as to 5
(Third) preparation for 6, 7
(Third) subjects susceptible of early settlement by . . . 37

Hague Conferences, differences between 6

Hague Conventions adopted in 1907 4
text of . . . . . 79 *et seq.*

Hall (W. F.) on necessity of war 16

Hardinge (Sir Charles) on cotton as contraband . . . 16

Higgens, Prof. v

Hinterland theory 69, 71
Institute of International Law on 73

Hospital ships 276
distinguishing signs for 165
exemption from capture of 165

Hospital staff 286

Hostages 290

Hostilities, commencement of, Convention relating to (text) . . 127
termination of 302

Humanity, interests of . . . . . , 130

PAGE

Immunity from capture of religious, medical, and hospital staffs 167, 173
of private property in maritime warfare 37

Impartiality, neutral duty of 191

Inquiry, International Commissions of, Hague provisions on . 104 *et seq.*

Institute of International Law, nature of vii
and the Third Hague Conference 37
on arbitration Treaties 45
on aviation 60
on international rivers 65
on occupation of vacant territory . . . . 71 *et seq.*

International arbitration, Hague provisions on . . . 109 *et seq.*

International Law, description of nature of 7

Intimidation in war 61

Invaded territory 140

Inviolability. *See* Immunity.

Italo-Argentine Arbitration Treaty, 1907 (text) 239

Italo-Mexican Arbitration Treaty (text) 243

Jarousse de Sillac and Third Hague Conference . . . 36

Knox (Secretary) concerning International Prize Court and Court of Arbitral Justice 43

Laissez-passer 150

Lamsdorff (Count), controversy on contraband . . . 15, 16

Language to be used in International Court of Arbitration . . 116

Lansdowne (Lord) on rice, etc., as contraband 15

Law, empire of 102

Law of Nations, principles of, to be followed 191

Leases, international 69, 71
Institute of International Law on 74

Leech (H. Brougham) on aviation 60

Levée en masse 134

Levies in occupied territory 141

Lighthouses in war-time 63

Limitation of armaments, *vœu* of 1899 as to 2
Hague (1907) resolution on 92

Local authority, property of 142

Local navigation, petty 173

London, Conference of (1908) 13
programme of 13, 14

PAGE

Maritime warfare, codification of 39

Marschall von Bieberstein (Baron) on floating mines . . . 27

Martens, F. de 65

Martitz, Prof. de 69

Mediation, Hague provisions on 103

Medical staff 286

Merchant ships, conversion of, into vessels of war . . . 25
Convention relating to (text) 153

Merchant ships, enemy, at commencement of hostilities, Convention relating to (text) 150

Militia as belligerents 134

Mines, submarine or floating 26
Convention relating to (text) 156

Monroe doctrine 22

Mouravieff (Count), note of (1898), on restriction of armaments . 31

Moynier, Gaston 65

Munitions of war, supply of, by neutral State and by neutral persons distinguished 192

Naval Prize Bill (1911) 17
rejection by House of Lords 18

Naval war, belligerent rights and duties 25
neutral rights and duties 24

Naval warfare, law of, Hague (1907) *vœu* concerning . . . 93

Necessities, military 141

Necessity in war 16, 138, 142

Neutral exportation of arms and munitions not forbidden . . 145

Neutral flag, transfer to 224
See Declaration of Paris.

Neutral persons 147
in belligerent service 147

Neutral Powers, rights and duties of . . . . . 144 *et seq.*
Convention relating to rights and duties of, in naval war (text) 191 *et seq.*

Neutral prizes, sinking of . . . . . 222 *et seq.*

Neutral rights and duties on land 23
in naval war 24

Neutral territory inviolable 144
belligerent troops on 146

Newspaper correspondents 136

Non-combatants in army 134

Notice of hostilities, obligation 127

PAGE

Oath to invading Power, exaction of 140

Occupation of vacant territory . . . . . 69 *et seq.*

Occupied territory 294
administration of . . . . . 140 *et seq.*

Officers as prisoners, pay of 137

Oppenheim, Prof. 58

Oxford Manual of Naval War (text) . . . . 262 *et seq.*

Oxford Rules of land warfare (1880) 9

Parlementaires 288

Parole 135, 136

Passengers 286

Peace Conferences, organisation of 51

Peace Convention (1907), text of 102

Personal rights of citizens in belligerent States 57

Pillage 139, 141, 251, 268

Pilots 290
neutral 193

Poison, employment of, forbidden 138

Poisoned arms 138

Postal correspondence 28, 172, 282

Prisoners of war . . . . . 134 *et seq.*, 290
employment of 135
food, etc., of 135

Prisoners' Information Bureau 136, 137

Private litigants in international arbitration . . . 47, 48

Private property in naval war, *vœu* of 1899 as to . . . 2
in occupied territory 141

Privateering 266
See Declaration of Paris.

Prize, definition of 262

Prize Court, International 9
difficulties in way of 13
Convention relating to (text) . . . . 176 *et seq.*
additional protocol (text) 260

Prize Court, Russian, bias shown by, in Russo-Japanese War . . 9

Prize Courts, British and American, appellate jurisdictions . . 9

Prize judgments 301

Prizes in neutral ports 195

Projectiles, discharge of, from aircraft, declaration relating to (text) . 199

PAGE

Protectorates, Institute of International Law on . . . 71

Protocol of submission. See *Compromis*.

Public ship, definition of 262

Quarter 138

Railway property, neutral 147

Recruiting offices on neutral territory forbidden . . . 145

"Red Cross" emblem 254

Red Sea, suggested neutralisation of 63

Regulations (Hague) concerning war (text) 134

Relief Societies 136

Religion, exercise of, by prisoners 137

Religious staff 286

Repairs in neutral ports 193, 194

Repatriation of prisoners 137

Requisitions in kind 141

Rescue 300

Resistance of neutral State against invasion 145

Restriction of armaments 31
Hague (1907) resolution on 92

Revision of arbitration award may be provided for . . . 119

Revision work of 1907 22

Rice as contraband 15

Rivers, international . . . . . 65 *et seq.*

Rolin (Albéric), Librarian of Carnegie Palace of Peace . . . 52

Ruses of war 266

Russell (Lord Chief Justice) on International Law . . . 7

Russian Prize Courts in Russo-Japanese War 9

Satow (Sir Ernest) on floating mines 26

Scott (Dr. James Brown) and Court of Arbitral Justice . . . 41

Search, resistance to 228

Seizure, definition of 262

Seizure of vessels, formalities of 298

Shipwrecked 292

Sick 292

PAGE

Sinking of merchant ships 17

Solidarity of civilised nations 102

Spheres of influence distinguished from spheres of interest . . 70

Spheres of interest 69, 70
Institute of International Law on 72

Spies 139, 288

"Stress of weather" 194

Submarine cables 284

Submarine mines 26, 268
Convention relating to (text) . . . . 156 *et seq.*

Submission, protocol of. See *Compromis.*

Suez Canal and Red Sea one Channel 63

Summary procedure of arbitration 120

Suspension of hostilities 296

Taxation in occupied territory 141

Territorial waters 55
neutral 192
submarine mines in 268

Third Hague Conference, questions bequeathed to, by Second Conference 35
preparation for 36

Torpedoes 268

Transfer to neutral flag 224

Treacherous methods of injuring enemy 266

Treachery 138
under flag of truce 139

Treaty of Arbitration, model by author 45

Twenty-four hours' rules 193, 194

Unneutral service 220

Vigilance, neutral 196

Violation by belligerent of neutral territory, resistance to, not act of hostility 145

Vis major 150

War, present, likened to an inundation viii
on land, work of Conference of 1907 in reference to . . 21
declaration of 127

PAGE

Wars, objects of 16

Washington, Treaty of (1871) 24

Wills of prisoners 137

Wounded 292
passage of, through neutral territory 146
in naval battles . . . . . 166 *et seq.*
impartial treatment of 251

Yermolow, Major-Gen. 57

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